

***INCOME TAX
ORDINANCE AND
REGULATIONS***

(ORDINANCE NO. 07-01)

**CITY OF
TIPP CITY, OHIO**

**EFFECTIVE
JULY 18, 2001**

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ORDINANCE NO. 07- 01

BY: Mr. Ochs

AN ORDINANCE AMENDING ORDINANCE NO. 40-72 RELATING TO THE MUNICIPAL INCOME TAX

NOW THEREFORE THE MUNICIPLITY OF TIPP CITY HEREBY ORDAINS:

SECTION 1. That Ordinance 40-72 passed November 7, 1972, and as subsequently amended by Ordinance Numbers 13-81, and 48-89 is hereby amended to read as follows:

SECTION I. PURPOSE A. To provide funds for the purposes of general municipal operations, maintenance, new equipment, extension and enlargement of municipal services and facilities and capital improvements of the City of Tipp City, there shall be, and is hereby levied, a tax on salaries, wages, commissions and other compensation, and on net profits as hereinafter provided.

PURPOSE B. To provide funds for capital improvement purposes for the City of Tipp City, there shall be, and is hereby levied a tax on salaries, wages, commissions, and other compensation, and on net profits as herein provided.

SECTION II. DEFINITIONS. As used in this Ordinance, the following words shall have the meaning ascribed to them in this Section, except as and if the context clearly indicates or requires a different meaning.

ADMINISTRATOR OF TAXATION (ALSO REFERRED TO AS ADMINISTRATOR) - The Administrator of Taxation of the City of Tipp City, Ohio or the person executing the duties of the aforesaid administrator of Taxation.

ASSOCIATION - A partnership, limited partnership, or any other form of unincorporated enterprise, owned by two (2) or more persons.

BOARD OF REVIEW - The Board created by and constituted as provided in SECTION XIII (A) of this Ordinance.

BOARD OF TAX APPEALS - The Board created by and constituted as provided in SECTION XIII (B) of this Ordinance.

BUSINESS - An enterprise, activity, profession, or undertaking of any nature conducted for profit or ordinarily conducted for profit, whether by an individual, partnership, association, corporation or any other entity.

CORPORATION - A corporation or joint stock association organized under the laws of the United States, the State of Ohio, or any other state, territory, or foreign country, or dependency.

DOMICILE - A principal residence that the taxpayer intends to use for an indefinite time and to which whenever he is absent he intends to return. A taxpayer has only one domicile even though he may have more than one residence.

EMPLOYEE - One who works for wages, salary, commission or other type of compensation in the service of an employer.

EMPLOYER - An individual, partnership, association, corporation, governmental body, unit or agency, or any other entity, whether or not organized for profit, having a place of business or doing business with the City of Tipp City and who or that employs one (1) or more persons on a salary, wage, commission, or other compensation basis.

FISCAL YEAR - An accounting period of twelve (12) months or less ending on any day other than December 31st.

FORM 2106 – Internal Revenue Service Form 2106 (or whatever form the IRS uses for this purpose) filed by a taxpayer pursuant to the Internal Revenue Code.

GENERIC FORM– An electronic or paper form designed for reporting estimated municipal income taxes and annual municipal income tax liability that is not prescribed by a particular municipal corporation for the reporting of that municipal corporation's tax on income.

GROSS RECEIPTS - The total income from any source whatsoever required to be included in the return.

INTANGIBLE INCOME – Income of any of the following types: income yield, interest, dividends, or other income arising from the ownership, sale, exchange, or other disposition of intangible property including, but not limited to, investments, deposits, money, or credits as those terms are defined in Chapter 5701 of the Ohio Revised Code.

INTERNAL REVENUE CODE – The Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C. 1, as amended.

INTERNET – The international computer network of both federal and nonfederal interoperable packet switched data networks, including the graphical sub network known as the World Wide Web.

NET PROFIT - A net gain from the operation of a business, profession, enterprise or other activity excluding capital gains and losses after provision for all ordinary and necessary expenses, paid or accrued in accordance with the accounting system used by the taxpayer for Federal income tax purposes, adjusted to the requirements of this Ordinance.

NON-RESIDENT - Any individual who is not a resident as herein defined.

NON-RESIDENT UNINCORPORATED BUSINESS ENTITY - An unincorporated business entity not having a place of business within the City of Tipp City.

OTHER ACTIVITY - Any undertaking, not otherwise specifically defined herein, which is normally entered into for profit, including, but not limited to, rental and personal property and a business conducted by a trust or guardianship estate.

OTHER PAYER – Any person that pays an individual any item included in the taxable income of the individual, other than the individual's employer or that employer's agent.

PERSON - Every natural person, partnership, fiduciary, association or corporation. Whenever used in any section prescribing and imposing a penalty, the term "person" includes an officer or employee of a corporation, or a member or employee of an association, who as such officer, employee or member is under a duty to perform the act in respect of which the violation occurs.

PLACE OF BUSINESS - Any bona fide office (other than a mere statutory office), factory, warehouse or other space which is occupied and used by the taxpayer in carrying on any business activity individually or through one or more of his regular employees regularly in attendance.

RESIDENT - A person, whether an individual, association, corporation or other entity domiciled in the City of Tipp City. Any person who maintains a place of abode within the City of Tipp City for a total of 183 days or more within any twelve (12) month period shall be deemed a resident.

RESIDENT UNINCORPORATED BUSINESS ENTITY - An unincorporated business entity having a place of business with the City of Tipp City.

RETURN PREPARER – Any person other than a taxpayer that is authorized by a taxpayer to complete or file an income tax return, report, or other document for or on behalf of the taxpayer.

SCHEDULE C – Internal Revenue Service Schedule C (or whatever schedule the IRS uses for this purpose) filed by a taxpayer pursuant to the Internal Revenue Code.

TAXABLE INCOME - Gross wages, salaries and other compensation paid by an employer or employers before any deduction, other than ordinary and necessary business expenses in the same manner as provided by the Internal Revenue Code, and net profits as herein defined.

TAXABLE YEAR - The calendar year, or the fiscal year upon the basis of which the net profits are to be computed under this Ordinance and, in the case of a return for fractional part of a year, the period for which such return is required to be made. Unless approved by the Administrator, the taxable year of a wage earner shall be a calendar year.

TAXPAYER - A person, whether an individual, partnership, association, or any corporation or other entity, required hereunder to file a return or pay a tax.

The singular shall include the plural, and the masculine shall include the feminine and the neuter.

SECTION III. IMPOSITION OF TAX.

A. Subject to the provisions of SECTION XVI of this Ordinance, an annual tax for the purposes specified in Section I, Purpose A, hereof shall be imposed beginning January 1, 1973 at the rate of seven-tenths of one per cent (00.7%) per annum, and beginning October 1st, 1981, an additional annual tax at the rate of one-tenth of one per cent (00.1%) per annum for the purposes specified in Section I, Purpose A shall be imposed. Beginning October 1st, 1981, an additional tax for the purpose specified in Section I, Purpose B, hereof, shall be imposed at the rate of two-tenths of one per cent (00.2%) per annum. All taxes herein shall be combined with the combined rate being one per cent (1.00%) per annum and levied upon the following:

1. On all salaries, wages, commissions and other compensation received during the effective period of the Ordinance by residents of the City of Tipp City.

2. On all salaries, wages, commissions and other compensation received during the effective period of the Ordinance by non-residents for work done or services performed or rendered in the City of Tipp City.

3. a. On the portion attributable to the City of Tipp City of the net profits earned, and accrued or received during the effective period of the Ordinance of all resident associations, unincorporated businesses, professions or other entities, derived from sales made, work done, services performed or rendered and business or other activities conducted in the City of Tipp City.

b. On the portion of the distributive share of the net profits earned, and accrued or received during the effective period of the Ordinance of a resident partner or owner of a resident unincorporated business entity not attributable to the City of Tipp City upon which the tax was not paid by the entity.

4. a. On the portion attributable to the City of Tipp City of the net profits earned, and accrued or received during the effective period of the Ordinance of all non-resident association, unincorporated businesses, professions or other entities, derived from sales made, work done or services performed or rendered and business or other

activities conducted in the City of Tipp City, whether or not such association or other unincorporated business entity has an office or place of business in the City of Tipp City.

b. On the portion of the distributive share of the net profits, earned, and accrued or received during the effective period of this Ordinance of a resident partner or owner of a non-resident association or other unincorporated business entity not attributable to the City of Tipp City on which the tax was not paid by the entity.

5. On the portion attributable to the City of Tipp City of the net profits earned, and accrued or received during the effective period of this Ordinance of all corporations derived from sales made, work done, services performed or rendered and business or other activities conducted in the City of Tipp City, whether or not such corporations have a place of business in the City of Tipp City.

B. The portion of the entire net profits of a taxpayer to be allocated as having been derived from within the City of Tipp City, in the absence of actual records, thereof, shall be determined as follows:

Multiply the entire net profits by a business allocation percentage to be the average ratio of:

a. The average net book value of the real and tangible personal property owned or by the taxpayer in the business or profession in the City of Tipp City during the taxable period to the average net book value of all the real and tangible personal property owned or used by the taxpayer in the business or profession during the same period, wherever situated.

As used in the preceding paragraph, real property shall include property rented or leased by the taxpayer and the value of such property shall be determined by multiplying the annual rental thereon by eight (8).

b. Wages, salaries, and other compensation paid during the taxable period to persons employed in the business or profession for services performed in the City of Tipp City to wages, salaries, and other compensation paid during the same period to persons employed in the business or profession, wherever their services are performed.

c. Gross receipts of the business or profession from sales made and services performed during the taxable period in the City of Tipp City to gross receipts of the business or profession during the same period from sales and services, wherever made or performed.

In the event that the foregoing allocation formula does not produce an equitable result, another basis may, under uniform regulations, be substituted so as to produce such result.

As used in paragraph B-1 (c) of this Section, "sales made in the City of Tipp City" mean:

a. All sales of tangible personal property which is delivered within the City of Tipp City regardless of their title passes if shipped or delivered from a stock of goods within the City of Tipp City.

b. All sales of tangible personal property which is delivered within the City of Tipp City regardless of where title passes even though transported from a point outside the City of Tipp City if the taxpayer is regularly engaged through its own employees in the solicitation or promotion of sales within the City of Tipp City and the sales result from such solicitation or promotion.

c. All sales of tangible personal property which is shipped from a place within the City of Tipp City to purchasers outside of the City of Tipp City regardless of where title passes if the taxpayer is not, through its own employees, regularly engaged in the solicitation or promotion of sales at the place where delivery is made.

C. For the purpose of this Section, the taxable base shall be determined in accordance with Federal Tax interpretations, when applicable, and with the accounting method used by the taxpayer for Federal income taxes adjusted to the requirements of this Ordinance.

D. CONSOLIDATED RETURNS

Filing of consolidated returns may be permitted or required in accordance with Rules and Regulations by the Administrator.

Allocation of income and deductions between related taxpayers; in the case of a corporation that carries on transactions with its stockholders or with other corporations related by stock ownership, interlocking directorates, or some other method, or in case any person operates a division branch factory, office, laboratory or activity with the City of Tipp City constituting a portion only of its total business, the Administrator may require such additional information as he may deem necessary to ascertain whether net profits are properly allocated to the City of Tipp City. If the Administrator finds net profits are properly allocated to the City of Tipp City. If the Administrator finds net profits are not properly allocated to the City of Tipp City by reason of transactions with stockholders or with other corporations related by stock ownership, interlocking directorates or transactions with such division, branch, factory, office, laboratory or activity or by some other method, he shall make such allocation as he deems appropriate to produce a fair and proper allocation of net profits to the City of Tipp City.

E. EXCEPTIONS

The tax provided for herein shall not be levied upon:

1. Pay or allowances of active members of the Armed Forces of the United States, or the income of religious, fraternal, charitable, scientific, literary or educational institutions to the extent that such income is derived from tax exempt real estate, tax exempt tangible or intangible property or tax exempt activities.
2. Poor relief, unemployment insurance benefits, old age pensions or similar payments including disability benefits received from local, State or Federal governments or charitable, religious or educational organizations.
3. Proceeds of insurance paid by reason of the death of the insured; pensions, disability benefits, annuities or gratuities not in the nature of compensation for services rendered from whatever source derived.
4. Receipts from seasonal or casual entertainment, amusements, sports events and health and welfare activities when any such are conducted by bona fide charitable, religious or educational organizations and associations.
5. Personal earnings of all persons under sixteen (16) years of age.
6. Employment of newsboys as such under eighteen (18) years of age.
7. Compensation paid under section 3501.28 or 3501.36 of the Ohio Revised Code to a person serving as a precinct official, to the extent that such compensation does not exceed one thousand dollars (\$1,000) annually. Such compensation in excess of one thousand dollars (\$1,000) may be subjected to taxation. The payer of such compensation is not required to withhold Tipp City income tax from that compensation.
8. The income of a public utility when that public utility is subject to the tax levied under section 5727.24 or 5727.30 of the Ohio Revised Code, except starting January 1, 2002, the income of an electric company or combined company, as defined in section 5727.01 of the Ohio Revised Code, may be taxed by a municipal corporation subject to Chapter 5745 of the Ohio Revised Code.
9. On and after January 1, 2001, compensation paid to a nonresident individual for personal services performed within the City of Tipp City, performs such personal services in the City of Tipp City on twelve (12) or fewer calendar days in which salary, wage, or compensation is earned in the calendar year, and if the individual is an employee, the principal place of business of the individual's employer is located outside the City of Tipp City, shall be exempt from the Tipp City income tax. This does not apply to professional entertainers or professional athletes or to promoters of professional entertainment or sports events and their employers, as reasonably defined by the City of Tipp City.

10. Gains from involuntary conversion, cancellation of indebtedness, interest on Federal obligations, items of income already taxed by the State of Ohio from which the City of Tipp City is specifically prohibited from taxing, and income of a decedent's estate during the period of administration (except such income from the operation of a business).

11. Alimony received.

SECTION IV. EFFECTIVE PERIOD

A. The first seven-tenths of one per cent (00.7%) shall be levied, collected and paid with respect to the salaries, wages, commissions and other compensation received and shall be levied with respect to the net profits of businesses, professions or other activities earned, and accrued or received on and after January 1, 1973.

B. The next three-tenths of one per cent (00.3%) shall be levied, collected and paid with respect to the salaries, wages, commissions and other compensation received and shall be levied with respect to the net profits of businesses, professions or other activities earned, and accrued or received on and after October 1, 1981.

C. The total tax rate is one per cent (1.00%) on and after October 1, 1981.

SECTION V. RETURN AND PAYMENT OF TAX

A. Each person who engages in business or other activity or whose salary, wage, commission or other compensation is subject to the tax imposed by this Ordinance, shall, whether or not a tax be due thereon, make and file a return on or before April 30 of the year following the effective date of this Ordinance, and on or before April 30 of each year thereafter. When the return is made for a fiscal year or other period different from the calendar year, the return shall be filed within four (4) months from the end of such fiscal year or period. The Administrator is hereby authorized to provide by regulation that the return of an employer or employers, showing the amount of tax deducted by said employer or employers from the salaries, wages, commissions or other compensation of an employee, and paid by him or them to the Administrator may be accepted as the return required of an employee whose sole income, subject to tax under this Ordinance, is such salaries, wages, commissions or other compensation.

B. The return shall be filed with the Administrator on a form or forms furnished by or obtainable upon request from the Administrator setting forth:

1. The aggregate amounts of salaries, wages, commissions and other compensation received by him and gross income from business, profession or other activity, less allowable expenses incurred in the acquisition of such gross income earned during the preceding year and subject to said tax; and

2. The amount of the tax imposed by this Ordinance on such earnings and profits; and

3. Such other pertinent statements, information returns, or other information as the Administrator may require.

C. The Administrator may extend the time for filing of the annual return upon the request of the taxpayer for a period of not to exceed six (6) months, or one (1) month beyond any extension requested of or granted by the Internal Revenue Service for the filing of the Federal Income Tax Return. The Administrator may require a tentative return, accompanied by payment of the amount of tax shown to be due thereon by the date the return is normally due.

D. 1. The taxpayer making a return shall, at the time of filing thereof, pay to the Administrator the amount of taxes shown as due thereon; provided, however, that credit shall be allowed for:

a. Any portion of the tax so due which shall have been deducted at the source pursuant to the Provisions of Section VI of this Ordinance; and

b. Any portion of said tax which shall have been paid by the taxpayer pursuant to the provisions of Section VII of the Ordinance; and

c. Credit to the extent allowed by Section XV hereof for tax paid to another municipality

2. Subject to the limitation contained in Section XI of this Ordinance, any taxpayer who has overpaid the amount of tax to which the City of Tipp City is entitled under the provision of this Ordinance may have such overpayment applied against any subsequent liability hereunder or, at his election indicated on the return, such overpayment (or part thereof) shall be refunded.

E. 1. AMENDED RETURNS: Where necessary an amended return must be filed in order to report additional income and pay any additional tax due, or claim a refund of tax overpaid, subject to the requirements and limitations contained in Section XI and Section XV. Such amended returns shall be on a form obtainable on request from the Administrator. A taxpayer may not change the method of accounting or apportionment of net profits after the due date for filing the original return.

2. Within three (3) months from the final determination of any Federal, State, or other Municipal income tax liability affecting the taxpayer's City of Tipp City tax liability, such taxpayer shall make and file an amended City of Tipp City return showing income subject to the city of Tipp City tax based upon such final determination of Federal tax liability and pay any additional tax shown due thereon or make claim for refund of any overpayment.

F. Information returns, schedules and statements required to support tax returns, which are incomplete without such information, shall be filed within the time limits set forth for the filing of the tax returns and the failure to file such information returns, schedules and statements shall be deemed to be a violation of this Ordinance. Provided, however, that the taxpayer shall have ten (10) days after notification by the Administrator, or his authorized representative, to file the items required by this paragraph,

SECTION VI. COLLECTION AT SOURCE

A. 1. Each employer shall at the time of the payment of any salary, wage, commission or other compensation earned on or after October 1, 1981 deduct the tax of one percent (1.0%) of the gross salaries, wages, commissions or other compensation due by the said employer to his employees who are subject to the provisions of this Ordinance. In making such deduction at the time of payment, the employer shall compute the tax to the nearest full cent so that mills of five (5) or more shall be increased to the next full cent and mills less than five (5) shall be dropped. No person shall be entitled to a refund merely because such rounding off of the tax results in an apparent overpayment based on his total earnings. Each employer shall, on or before the fifteenth (15th) day of each month, make a return and pay to the Administrator, the tax withheld during the preceding month. Provided, however, the Administrator shall have the authority to approve the filing of returns and payment of the tax withheld on a quarterly basis. In such case, the employer shall, on or before the last day of each month following the calendar quarters ending March 31, June 30, September 30, and December 31, make a return and pay to the Administrator the tax withheld during the preceding calendar quarter. Such approval for quarterly filings and payments may be withdrawn by the Administrator when it is to the best interest of the City of Tipp City to do so. The administrator shall provide by regulation, the manner in which such approval is to be granted or withdrawn.

2. The employer shall be liable for the payment of the tax, required to be deducted and withheld, whether or not such tax has in fact been withheld.

B. Such employer in collecting said tax shall be deemed to hold the same, until payment is made by such employer to the City of Tipp City, as Trustee for the benefit of the City of Tipp City and any such tax collected by such employer from his employees shall, until the same is paid to the City of Tipp City, be deemed a trust fund in the hands of such employer.

C. Beginning January 1, 2001, If not currently required to withhold City of Tipp City income tax, a nonresident employer, agent of such an employer, or other payer that is not situated in the City of Tipp City, shall not be required to deduct and withhold taxes from the taxable income of an individual unless the total amount of tax required to be deducted and withheld for the City of Tipp City on account of all the employer's employees or all of the other payer's payees exceeds one hundred fifty dollars (\$150) for a calendar year.

D. If the total amount of tax required to be deducted and withheld on account of all of the nonresident employer's employees or all of the other payer's payees exceeds one hundred fifty dollars (\$150) for a calendar year, the employer, agent of such an employer, or other payer must deduct and withhold taxes in that calendar year and in each ensuing year even if the amount required to be deducted and withheld in each of those ensuing years is one hundred fifty dollars (\$150) or less, until such time that the tax so deducted and withheld is one hundred fifty dollars (\$150) or less for three consecutive years.

E. A nonresident employer, agent of such an employer, or other payer that is not situated in the City of Tipp City and is exempt from withholding pursuant to this section shall report all taxable income paid to its employees or agents working in the City of Tipp City on an annual basis. This report shall be due on or before the due date of Reconciliation of each year, and shall include a calculation of the total compensation earned in the City of Tipp City by all employees during the preceding calendar year.

F. No person shall be required to withhold the tax on the wages or other compensation paid domestic servants employed by him exclusively in or about such person's residence, even though such residence is in the City of Tipp City, but such employee shall be subject to all of the requirements of this Ordinance.

G. On or before January 31 of each year beginning with the year 1974 each employer shall file a withholding return in a form prescribed by and obtainable upon request from the administrator setting forth the names and addresses of all employees from whose compensation the tax was withheld during the preceding calendar year and the amount of tax withheld from his employees and such other information as may be required by the Rules and Regulations adopted by the Administrator.

SECTION VII. DECLARATIONS

A. Every person who anticipates the receipt of any taxable income which is not subject to Section VI hereof, or who engages in any business, profession, enterprise, or activity subject to the tax imposed by Section III hereof, shall file a declaration setting forth such person's estimated taxable income together with any estimated tax due thereon, if any, provided, however, if a person's income is wholly from wages from which the tax will be withheld and remitted to the City of Tipp City in accordance with Section VI hereof, such person need not file a declaration.

B. 1. Such declaration shall be filed on or before April 30 of each year during the life of this Ordinance, or within four (4) months after the date the taxpayer becomes subject to the provisions of this Ordinance.

2. Those taxpayers reporting on a fiscal year basis shall file a declaration within four (4) months after the beginning of each fiscal year or period.

C. 1. Such declaration shall be filed upon a form furnished by or obtainable upon request from the Administrator, provided, however credit shall be taken for the City of Tipp City tax to withhold from any portion of such income to determine the estimated tax due. In accordance with the provisions at Section XV hereof, credit may be taken for tax to be paid to or to be withheld and remitted to another taxing municipality.

2. The original declaration (or subsequent amendment thereof) may be amended at any time.

3. An amended declaration must be filed on or before January 31 of the following year, or in the case of a taxpayer on a fiscal year, on or before the date fixed by regulation of the Administrator if it appears that the original declaration made for such taxable year under estimated the taxpayer's income by ten per cent (10%) or more. At such time a payment which, together with prior payments, is sufficient to pay the taxpayer's entire

estimated liability shall be made. If upon filing of the return required by Section V hereof, it appears that the taxpayer did not pay ninety per cent (90%) of his tax liability, as shown on said return, on or before January 31, or the date fixed by regulations, whichever is applicable, the difference between ninety per cent (90%) of said taxpayer's tax liability and the amount of estimated tax actually paid on or before January 31, or the date fixed by regulation, whichever is applicable, shall be subject to the interest and penalty provisions of Section X hereof.

D. For individuals, such declaration of net estimated TAX TO BE PAID THE City of Tipp City shall be accompanied by a payment of at least one-fourth (1/4) of the estimated annual tax less credit and at least a similar amount shall be paid on or before the last day of the seventh (July), tenth (October) and thirteenth (January) months after the beginning of the taxable year. Provided, however, that in case an amended declaration has been filed, the unpaid balance show due thereon shall be paid in equal installments on or before the remaining payment dates.

E. 1. For non-individuals (Corporations, Partnerships, S Corps, LLC's, etc.), such declaration of net estimated TAX TO BE PAID the City of Tipp City shall be accompanied by a payment of at least one-fourth (1/4) of the estimated annual tax less credit and at least a similar amount shall be paid on or before the fifteenth (15th) day of the sixth (6th), ninth (9th), and twelfth (12th) months after the beginning of the taxable year. Provided, however, that in case an amended declaration has been filed, the unpaid balance show due thereon shall be paid in equal installments on or before the remaining payment dates.

2. Provided further, however, that the last quarterly payment of estimated tax need not be made if the taxpayer files his final return and pays the balance of the tax due thereon within forty-five (45) days following the end of his taxable year.

F. On or before the last day of the fourth month of the calendar or fiscal year following that for which such declaration or amended declaration was filed, an annual return shall be filed and any balance which may be due the City of Tipp City shall be paid therewith in accordance with the provisions of Section V hereof.

G. Notwithstanding any provision or requirement of this Ordinance to the contrary, if a taxpayer resides or proposes to reside in the City of Tipp City or engages in business or proposes to engage in business therein for a period of less than three (3) months or if the Administrator determines that the residence of any taxpayer in the City or the period during which any taxpayer will engage in business in the City may be reasonably be expected to be less than three (3) months, the Administrator may require any such taxpayer to file a declaration and a return within such time as he may reasonably fix and to pay or secure the payment of any tax due or to become due and any tax withheld or required to be withheld during the period of residence or engagement in business or the period of such residence or engagement in business estimated by the Administrator.

H. The date or dates fixed by the Administrator for the filing of declarations and returns and for payments or security for payment of taxes pursuant to this Sub-Section F, shall be in lieu of the dates for such filing or payment specified for taxpayers generally in this Ordinance.

SECTION VIII. DUTIES AND POWERS OF THE ADMINISTRATOR OF TAXATION

A. 1. It shall be the duty of the Administrator to receive the tax imposed by this Ordinance in the manner prescribed herein from the taxpayers; to keep an accurate record thereof; and to report daily all monies so received.

2. It shall be the duty of the Administrator to enforce payment of all taxes owing the City of Tipp City, to keep accurate records for a minimum of five (5) years showing the amount due from each taxpayer required to file a declaration or make any return, including taxes withheld, and to show the dates and amounts of payments thereof.

B. The Administrator is hereby charged with the enforcement of the provisions of this Ordinance, and is hereby empowered, subject to the approval of the Board of Review, to adopt and promulgate and to enforce rules and regulations relating to any matter or thing pertaining to the collection of taxes and administration and

enforcement of the provisions of this Ordinance, including provisions for the re-examination and correction of returns.

C. In any case where a taxpayer or employer has failed to file a final return or has filed a return which does not show the proper amount of tax due, the Administrator may assess the amount of tax appearing to be due, together with interest and penalties thereon, if any, in the following manner:

1. General Provisions.

a. If the Administrator determines that any taxpayer subject to the provisions of this Ordinance has a tax liability for which he has filed no return or has filed an incorrect return and has failed to pay the full amount of tax due, the Administrator shall issue a proposed assessment showing the amount of tax due, together with any penalty and interest that may have accrued thereon.

1. Such proposed assessment shall be served upon the taxpayer in person or by mailing to his last known address. Proof of mailing furnished by the U.S. Post Office shall be presumptive proof of receipt thereof by the addressee.

2. A taxpayer may, within fifteen (15) days after the date the proposed assessment was served or mailed, file a written protest with the Administrator. Within fifteen (15) days after receipt of the protest, the Administrator shall give the protestant an opportunity to be heard; provided, further, that the Administrator may extend the date of hearing for good cause shown. After the hearing the Administrator shall withdraw the assessment or he shall adjust or reaffirm the assessment and it shall then become final. If no protest is filed as herein provided, such proposed assessment shall become final fifteen (15) days after being served.

b. After a proposed assessment becomes final, notice of such final assessment shall be issued and shall be served in the same manner as a proposed assessment.

1. A taxpayer shall have thirty (30) days after the date the final assessment was served or mailed within which to file written notice of appeal with the Board of Tax Appeals. The request shall state with particularity why the decision should be deemed incorrect or unlawful. Such written notice of appeal shall be filed in a sealed envelope plainly marked "Appeal to Board of Tax Appeals" and mailed or delivered to the Administrator who shall, within five (5) days after receipt thereof, deliver such appeal to the Chairman of the Board of Tax Appeals or, if the Chairman is not available, to the Vice-Chairman.

2. The imposition of penalty and interest as prescribed in the codified ordinance of the City of Tipp City is not a sole basis for an appeal.

3. The Board of Tax Appeals, upon receipt of a notice of appeal, shall within fifteen (15) days notify the Administrator thereof who shall forward within fifteen (15) days to the Board a certified transcript of all actions taken by him with respect to said final assessment. Such transcript shall be open to inspection by the appellant and his counsel.

4. Any taxpayer, against whom a final assessment has been issued and who has filed a notice of appeal, shall be granted a hearing by the Board of Tax Appeals within forty-five (45) days after the Board receives the request, unless the taxpayer waives a hearing. At such hearing the appellant and the Administrator shall be given opportunity to present evidence relating to said final assessment. The taxpayer may appear before the Board and may be represented by an attorney at law, certified public accountant, or other representative. Within ninety (90) days after the conclusion of such hearing, the Board of Tax Appeals shall affirm, reverse or modify the said final assessment and shall furnish a copy of its decision within fifteen (15) days after issuing a decision in respect thereof to the appellant and the Administrator. The appellant's copy of said decision shall be served upon him in the same manner as herein provided for the serving of assessments.

c. Each Board of Tax Appeals created pursuant to this section shall adopt rules governing its procedures and shall keep a record of its transactions. Such records are not public records available for inspection under Section

149.43 of the Ohio Revised Code. Hearings requested by a taxpayer before a Board of Tax Appeals created pursuant to this section are not meetings of a public body subject to Section 121.22 of the Ohio Revised Code.

d. When any taxpayer to the provisions of this Ordinance has filed a return indicating the amount of tax due and has failed to pay said tax to the Administrator as required by this Ordinance, the Administrator need not issue an assessment but may proceed under the provisions of Section XI and Section XII of this Ordinance.

2. Provisions Affecting Employers

a. If the Administrator determines that an employer subject to the provisions of this Ordinance has failed to file a return for tax withheld and has failed to pay to the Administrator the full amount of said taxes, the Administrator shall issue a proposed assessment showing the amount of tax due, together with any penalties and interest that may have accrued thereon, and the provisions of Paragraphs C-1 (a) and C-1 (b) of this Section VIII shall then apply.

b. If the Administrator determines that an employer subject to the provisions of this Ordinance has failed to withhold tax, the Administrator shall issue a proposed assessment showing the tax due, together with any penalties and interest that may have accrued thereon, and the provisions of Paragraphs C-1 (a) and C-1 (b) of this Section VIII shall then apply.

c. When an employer subject to the provisions of this Ordinance has filed a return indicating the amount of tax withheld and had failed to pay said tax to the Administrator as required by this Ordinance, the Administrator may proceed under the provisions of Section XI and Section XII of this Ordinance and need not issue an assessment as provided in Section VIII, Paragraphs C-2 (a) and C-2 (b).

D. 1. Any taxpayer or employer who has not filed a notice of appeal to the Board of Appeals from a final assessment issued against him shall pay the amount thereof within fifteen (15) days after service of such final assessment.

2. Any taxpayer or employer who has filed a notice of appeal to the Board of Tax Appeals from a final assessment issued against him shall pay the amount determined to be due by the Board of Tax Appeals within fifteen (15) days after service of his copy of the decision of the Board.

E. The Administrator shall have the authority, when requested by the taxpayer and for good cause shown, to extend the time of making and filing any return whenever he deems it necessary to do so, but not to exceed a period of six (6) months, or one (1) month beyond any extension requested of or granted by the Internal Revenue Service for the filing of the Federal income tax return.

F. When an application for deferred payment of tax due is filed by a taxpayer, the Administrator may authorize partial payments of unpaid taxes when, in his judgment, such deferred payments are the best means of accomplishing the intent of this Ordinance. Provided, however, that the Administrator shall not authorize an extension of time for the payment of said taxes due for more than six (6) months beyond the date of the filing of the application.

SECTION IX. INVESTIGATIVE POWERS OF THE ADMINISTRATOR – PENALTY FOR DIVULGING CONFIDENTIAL INFORMATION.

A. The Administrator, or any authorized employee, is hereby authorized to examine the books, papers, records and copies of Federal income tax returns of any employer or of any taxpayer or person subject to, or whom the Administrator believes is subject to the provisions of the Ordinance, for the purpose of verifying the accuracy of any return made, or, if no return was made, to ascertain the tax due under this Ordinance. Every such employer, supposed employer, taxpayer or supposed taxpayer is hereby directed and required to furnish within ten (10) days following a written request by the Administrator, or his duly authorized agent or employee, the means, facilities and opportunity for making such examinations and investigations as are hereby authorized.

B. The Administrator is hereby authorized to order any person presumed to have knowledge of the facts to appear before him and may examine such persons, under oath, concerning any income which was or should have been returned for taxation or any transaction tending to affect such income, and for this purpose may compel the production of books, papers, records and copies of Federal income tax returns and the attendance of all persons before him, whether as parties or witnesses, whenever he believes such persons have knowledge of such income or information pertinent to such inquiry.

C. The refusal to produce books, papers, records and copies of Federal income tax returns, or the refusal to submit to such examination by any employer or person subject or presumed to be subject to the tax or by any officer, agent or employee of a person subject or presumed to be subject to the tax or by any officer, agent or employee of a person subject to the tax or required to withhold tax or the failure of any person to comply with the provisions of this Section IX or with an order or subpoena of the Administrator authorized hereby shall be deemed a violation of this Ordinance, punishable as provided in Section XII hereof.

D. Any information gained as the result of any returns, investigations, hearings or verifications required or authorized by this Ordinance shall be confidential, except for official purposes, or except when ordered by a Court of competent jurisdiction. Any person divulging such information in violation of this Ordinance, shall, upon conviction thereof, be deemed guilty of a misdemeanor and shall be subject to a fine or penalty of not more than Five Hundred Dollars (\$500.00) or imprisoned for not more than six (6) months, or both. Each disclosure shall constitute a separate offense.

In addition to the above penalty, any employee of the City of Tipp City who violates the provisions of this Section IX relative to the disclosure of confidential information shall be guilty of an offense punishable by immediate dismissal.

E. Every taxpayer shall retain all records necessary to compute his tax liability for a period of five (5) years from the date his return is filed, or withholding taxes are paid.

SECTION X. INTEREST AND PENALTIES.

A. All taxes imposed and all monies withheld or required to be withheld by employers under the provisions of this Ordinance and remaining unpaid ten (10) days after they become due shall bear interest at the rate of one per cent (1.0%) per month or fraction thereof.

B. In addition to interest as provided in Paragraph A of this Section, penalties based on the unpaid tax are hereby imposed as follows:

1. For failure to pay taxes due, other than taxes withheld; one per cent (1.0%) per month or fraction thereof, or ten per cent (10%) whichever is greater.

2. For failure to remit taxes withheld from employees; three per cent (3.0%) per month or fraction thereof or ten per cent (10%) whichever is greater.

3. Failure to file a Tipp City Tax Return by the due date shall result in a late filing penalty fee of \$20.00 being assessed. This fee is in addition to any interest and penalties provided for in Parts A and B of this Section. The failure to file of \$20.00 is waived for first-time filers.

4. Where the taxpayer has failed to file a declaration on which he has estimated and paid a tax equal to or greater than the tax paid for the previous year, or has failed to file a declaration on which he has estimated and paid tax equal to or greater than ninety per cent (90%) of the actual tax for the year, or has failed to file a final return and pay the total tax on or before the end of the month following the end of his taxable year; ten per cent (10%) of the difference between ninety per cent (90%) of the actual tax for the year and the amount paid through withholding or declaration.

5. Except in the case of fraud, the penalty shall not exceed fifty per cent (50%) of the unpaid tax.

C. EXCEPTIONS. A penalty shall not be assessed on an additional tax assessment made by the Administrator when a return has been filed in good faith and the tax paid thereon within the time prescribed by the Administrator, and provided further, that, in the absence of fraud, neither penalty nor interest shall be assessed on any additional tax assessment resulting from a Federal audit, providing an amended return is filed and the additional tax is paid within three (3) months after final determination of the Federal Tax liability.

D. Upon recommendation of the Administrator, the Board of Review may abate penalty or interest, or both.

E. Provided, however, that in no case shall penalty and interest charges be levied when the total of such penalty and interest amounts to less than One Dollar (\$1.00).

F. Any person required to withhold the tax who knowingly fails to withhold such tax, or pay over tax or knowingly attempt to, in any manner, evade or defeat such tax or the payment thereof, shall, in addition to other penalties provided by law, be liable to a penalty equal to the total amount of the tax evaded, or not withheld, or not paid over. No other penalty under this Section X shall be applied to any offense to which this penalty is applied.

G. Interest but no penalty will be assessed where an extension has been granted by the Administrator and the final tax paid within the period as extended.

SECTION XI. COLLECTION OF UNPAID TAXES AND REFUND OF OVERPAYMENTS.

A. All taxes imposed by this Ordinance shall be collectible, together with any interest and penalties thereon, by suit, as other debts of like amount are recoverable. Except in the case of fraud, omission of twenty-five per cent (25%) of income subject to this tax, overstatement of twenty-five per cent (25%) of tax credits or failure to file a final return, an additional assessment shall not be made after three (3) years from the time the return was due or filed, whichever is later, provided, however, in those cases in which a Commissioner of Internal Revenue and the taxpayer have executed a waiver of the Federal statute of limitation, the period within which an additional assessment may be made by the Administrator shall be one (1) year from the time of the final determination of the Federal tax liability.

B. Taxes erroneously paid shall not be refunded unless a claim for refund is made within three (3) years from the date which such payment was made or the return was due, or within three (3) months after final determination of the Federal tax liability, whichever is later.

C. Additional amounts of less than One Dollar and one cent (\$1.01) shall not be refunded or assessed unless such assessment results from income which the taxpayer has failed to report.

SECTION XII. CRIMINAL PENALTIES.

A. Any person who shall:

1. Fail, neglect or refuse to make any return or declaration required by this Ordinance; or
2. Make any incomplete, false or fraudulent return; or
3. Knowingly fail or refuse to pay the tax, penalties or interest imposed by this Ordinance; or
4. Knowingly fail or refuse to withhold the tax from his employees and remit such withholding to the Administrator; or
5. Refuse to permit the Administrator or any duly authorized agent or employee to examine his or his employer's books, records, papers and copies of Federal income tax returns relating to the income or net profit of a taxpayer; or

6. Fail to appear before the Administrator and to produce his or his employer's books, records, papers or copies of Federal income tax returns relating to the income or net profits of a taxpayer upon order or subpoena of the Administrator; or

7. Refuse to disclose to the Administrator any information with respect to the income or net profits of a taxpayer; or

8. Fail to comply with the provisions of this Ordinance or any order or subpoena of the Administrator; or

9. Attempt to do anything whatever to avoid the payment of the whole or any part of the tax, penalties or interest imposed by this Ordinance;

Shall be guilty of a misdemeanor and shall be fined not more than Five Hundred Dollars (\$500.00) or imprisoned not more than six (6) months or both, for each offense.

B. 1. Any person subject to the provisions of Sections I through XVIII inclusive, of this Ordinance, who has failed to file or has filed an incorrect return and has failed to pay the full amount of tax due, shall not be deemed to have committed an offense punishable under the provisions of this Section until the assessment issued against him under the provisions of Section VIII of this Ordinance, has become due and payable.

2. Any person who has filed a return under the provisions of Sections I through XVIII inclusive, of this Ordinance, indicating the amount of tax due, and has failed to pay said tax, together with any penalties or interest that may have accrued thereon, shall not be deemed to have committed an offense for having knowingly failed to pay the tax, penalties or interest due as provided in Paragraph A-3 above, until the date of the filing of such return.

C. The term "person" as used in this Section shall, in addition to the meaning prescribed in Section II of this Ordinance, include in the case of an association or corporation not having any partner, member or officer within the City of Tipp City, any employee or agent of such association or corporation who can be found within the corporate limits of the City of Tipp City.

D. All prosecutions under this Section must be commenced within five (5) years from the time of the offense complained of except in the case of failure to file a final return or in the case of filing a false or fraudulent return, or failure to pay the tax due, in which event the limitation of time within which prosecution must be commenced shall be ten (10) years from the date the return was due or the date the false or fraudulent return was filed or the tax was due, whichever is later.

E. The failure of any employer or taxpayer or person to receive or procure a return, declaration or other required form shall not excuse him from making any information return, return or declaration, from filing such forms, or from paying the tax.

SECTION XIII. BOARD OF REVIEW AND BOARD OF TAX APPEALS.

A. Board of Review

1. A Board of Review, consisting of the City Solicitor as Chairman, The City Manager as Secretary and the President of Council is hereby created. A majority of the members of the Board shall constitute a quorum.

2. The Board shall adopt its own procedural rules and shall keep a record of its proceedings. All hearings of the Board shall be conducted privately and the provisions of Section IX of this Ordinance with reference to the confidential character of information required to be disclosed by this Ordinance shall apply to such matters as may be presented to the Board of Review.

3. The Board shall have the authority, upon request of the Administrator, to modify in whole or in part, any assessment of tax, penalty or interest, required to be made by this Ordinance. In addition, the Board may authorize the Administrator to accept partial payments for a period in excess of the time authorized in Section VIII of this Ordinance.

4. All rules and regulations and amendments or changes thereto, which are adopted by the Administrator under the authority conferred by this Ordinance, must be approved by the Board of Review before the same become effective.

B. Board of Tax Appeals

1. Board of Tax appeals, consisting of three (3) representative citizens of the City of Tipp City, not otherwise employed by the City of Tipp City, to be appointed by the City Council for a term of one year, hereby is created.

2. One of the members of the Board, appointed by the City Council, shall be chosen by the members as Chairman of the Board and all may receive per diem compensation to be fixed by the city Council. A majority of the members of the Board shall constitute a quorum. The Board shall adopt its own procedural rules and keep a record of its proceedings. All hearings by the board shall be conducted privately unless the taxpayer specifically requests in writing, a public hearing. Unless such written request is made the provisions of Section IX hereof with reference to the confidential character of information required to be disclosed by this Ordinance shall apply to such matters as may be heard on appeal before the Board.

3. The Board shall, on hearing, have jurisdiction to affirm, reverse or modify any such assessment, ruling or decision, or any part thereof, made by the Administrator from which an appeal has been filed as provided in Section VIII of this Ordinance.

SECTION XIV. ALLOCATION OF FUNDS,

A. The funds collected under the provisions of this Ordinance shall be allocated in such manner as prescribed by Ordinance adopted by the City Council of the City of Tipp City.

SECTION XV. CREDIT FOR TAX PAID TO ANOTHER MUNICIPALITY.

A. Where a resident of the City of Tipp City is subject to a municipal income tax in another municipality he shall not pay a total municipal income tax on the same income greater than the tax imposed at the highest rate to which he is subject.

B. Every individual taxpayer who resides in the City of Tipp City who receives net profits, salaries, wages, commissions or other personal service compensation for work done are services performed or rendered outside the City of Tipp City, if it be made to appear that he has paid a municipal income tax on the same income taxable under Ordinance to another municipality, shall be allowed a credit against the tax imposed by this Ordinance of the amount so paid by him or in his behalf to such other municipality. The credit shall not exceed the tax assessed by this Ordinance on such income earned in such other municipality or municipalities where such tax is paid. If a taxpayer receives a refund from another Municipality, his credit allowed by Tipp City must be reduced proportionately.

C. A claim for refund or credit under this section shall be made in such manner as the Administrator may by regulation provide.

SECTION XVI. JOINT ECONOMIC DEVELOPMENT DISTRICTS (J.E.D.D.) (Credits For Tax Paid to Another Municipality)

- A. Credit for tax paid to another municipality or to a Joint Economic Development District.

1. Where a resident of Tipp City is subject to a municipal income tax in another municipality or in a Joint Economic Development District, he shall not pay a total municipal income tax on the same income greater than the tax imposed at a higher rate.
2. Every taxpayer who resides in the city but receives net profits, salaries, wages, other compensation, and other income from a resident or nonresident business entity or association of which he is a partner or owner, for work done or services performed or rendered outside of the City of Tipp City, if it is made to appear that he or such business entity has paid a municipal or a Joint Economic Development District income tax on or with respect to the same income taxable under this chapter to another municipality or to a Joint Economic Development District, shall be allowed a credit against the tax imposed by this chapter in the amount so paid by him, in his behalf, or by such business entity, to the other municipality or to a Joint Economic Development District. In no event, however, shall any municipal income tax or any Joint Economic Development District income tax to the extent paid to another municipality or to a Joint Economic Development District and allowed as a credit hereunder be deductible in computing the net profit of such taxpayer or such business entity. In addition, the credit shall not exceed the tax assessed by this chapter on income earned in such other municipality or municipalities or Joint Economic Development District(s) where the tax is paid.
3. A claim for refund or credit under this section shall be made in such a manner as the Tax Administrator may, by regulation, provide.

B. Requirements For Joint Economic Development Districts.

1. Specific provisions of this chapter may be modified as they apply to Joint Economic Development Districts if the modifications are passed by Council in an ordinance which either specifically approves a Joint Economic Development District Contract or specifically amends this chapter.

SECTION XVII. SAVING CLAUSE.

This Ordinance shall not apply to any person, firm, or corporation, or income, as to whom, or as to which it is beyond the power of the City Council to impose the tax herein provided for. If any sentence, clause, section or part of this Ordinance, or any tax against any individual or any of the several groups specified herein, is found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall affect only such clause, sentence, section or part of this Ordinance and shall not affect or impair any of the remaining provisions, sentences, clauses, sections or other parts of this Ordinance. It is hereby declared to be the intention of the Electors of the City of Tipp City that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

SECTION XVIII. COLLECTION OF TAX AFTER TERMINATION OF ORDINANCE.

A. This Ordinance shall continue effective insofar as the levy of taxes is concerned until repealed, and insofar as the collection of taxes levied hereunder and actions or proceedings for collecting any tax so levied or enforcing any provisions of this Ordinance are concerned, it shall continue effective until all of said taxes levied hereunder are fully paid and any and all suits and prosecutions for the collection of said taxes or for the punishment of violations of this Ordinance shall have been fully terminated, subject to the limitations contained in Section XI and Section XII hereof.

B. Annual returns due for all or any part of the last effective year of this Ordinance shall be due on the date provided in Section V and Section VI of this Ordinance as though the same were continuing.

SECTION XVIV. This Ordinance shall be in full force and effect from and after the earliest period allowed by law.

PASSED: June 18, 2001

// David F. Hill
President of Council

ATTEST: // Misty Cox
Clerk of Council

APPROVED: // Joseph P. Moore
Law Director

INCOME TAX REGULATIONS

Issued Under Authority of Section VIII of Ordinance No. 40-72

Approved by Board of Review

December 11, 1972

Amended by Board of Review on November 9, 1988

Amended by Board of Review on December 15, 1999

Amended by Board of Review on December 10, 2001

Amended by Board of Review on December 12, 2003

Amended by Board of Review on October 24, 2006

ARTICLE I – PURPOSE

The tax is levied to provide funds for the purpose of general municipal operations and permanent improvements.

ARTICLE II – DEFINITIONS

As used in these Rules and Regulations, the following words shall have the meaning ascribed to them in this article, except as and if the context clearly indicates or requires a different meaning.

ASSOCIATION means a partnership, cooperative, limited partnership, or any other form of unincorporated enterprise owned by two (2) or more persons.

BOARD OF REVIEW means the Board created by and constituted as provided in Section XIII, paragraph A of the Ordinance.

BUSINESS means an enterprise, cooperative activity, profession or undertaking of any nature conducted for profit or ordinarily conducted for profit whether by an individual, partnership association, corporation or any other entity. The ordinary administration of a decedent's estate by the executor or administrator, and the mere custody, supervision and management of trust properly under passive trust, whether inter vivos or testamentary, unaccompanied by the actual operation of a business as here in defined shall not be construed as the operation of a business as herein defined shall not be construed as the operation of a business.

BUSINESS ALLOCATION as used in these Regulations, means the portion of net profit to be allocated to the City of Tipp City as having been made in the City of Tipp City, either under separate accounting method, or under the three (3) factor formula of property, payroll, and sales, provided for in Section III of this Ordinance.

CITY means the City of Tipp City.

CORPORATION means a corporation or joint stock association organized under the laws of the United States, the State of Ohio, or any other state, territory or foreign dependency.

ADMINISTRATOR OF TAXATION (ALSO REFERRED TO AS ADMINISTRATOR) The Administrator of Taxation of the City of Tipp City, Ohio, or the person executing the duties of the aforesaid Administrator of Taxation.

EMPLOYEE means one who works for wages, salary, commission or other types of compensation in the service of an employer. Any person upon whom an employer is required to withhold for either Federal income or social security tax purposes or on whose account payments are made under the Ohio Workman's Compensation law shall prima facie be an employee.

EMPLOYER means an individual, partnership, association, corporation (including a corporation not for profit), governmental agency, board, body, bureau, department, sub-division, or unit or any other entity, who or that employs one or more persons on a salary, wage, commission or other compensation basis whether or not such employer is engaged in business. It does not include a person who employs only domestic help for such person's residence.

DOMICILE means a principal residence that the taxpayer intends to use for an indefinite time and to which whenever he is absent he intends to return. A domicile once acquired is presumed to continue until it is shown to have been changed. Intention to change domicile will not effect such a change unless accompanied by actual removal. Where a change of domicile is alleged, the burden of proving it rests upon the person making the allegation.

FISCAL YEAR means an accounting period of twelve (12) months or less ending on any day other than December 31. Only fiscal years accepted by the Internal Revenue Service for Federal income tax purposes may be used for City of Tipp City tax purposes.

FORM 2106 means Internal Revenue Service Form 2106 (or whatever form the IRS uses for this purpose) Filed by a taxpayer pursuant to the Internal Revenue Service Code.

GENERIC FORM means an electronic or paper form designed for reporting estimated municipal income taxes and annual municipal income tax liability that is not prescribed by a particular municipal corporation for the reporting of that municipal corporation's tax on income.

GROSS RECEIPTS means total income from any source whatsoever.

INTANGIBLE INCOME means income of any of the following types: income yield, interest, dividends, or other income arising from the ownership, sale, exchange, or other disposition of intangible property including, but not limited to, investments, deposits, money, or credits as those terms are defined in Chapter 5701 of the Ohio Revised Code.

INTERNAL REVENUE CODE means the Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C. 1, as amended.

INTERNET means the international computer network of both federal and nonfederal interoperable packet switched data networks, including the graphical sub network known as the World Wide Web

NET PROFITS means the net gain from the operation of a business, profession, enterprise or other activity excluding capital gains and losses after provision for all ordinary and necessary expenses paid or accrued in accordance with the accounting system used by the taxpayer for Federal income tax purposes, without deduction of taxes imposed by the Ordinance, Federal, State and other taxes based on income; and in the case of an association, without deduction of salaries paid to partners, and other owners; and otherwise adjusted to the requirements of the Ordinance.

NON-RESIDENT means any individual who is not a resident as herein defined.

NON-RESIDENT UNINCORPORATED BUSINESS ENTITY means an unincorporated business entity not having an office or place of business within the City of Tipp City.

ORDINANCE means Ordinance No. 40-72 enacted by the Council of the City of Tipp City and any amendments and supplements thereto or modifications thereof.

OTHER ACTIVITY means any undertaking, not otherwise specifically defined herein, which is normally entered into for profit, including, but not limited to rental of real and personal property and a business conducted by a trust or guardianship estate.

OTHER PAYER means any person that pays an individual any item included in the taxable income of the individual, other than the individual's employer or that employer's agent.

PERSON means every natural person, partnership, fiduciary, association, corporation or other entity. Whenever used in any article prescribing or imposing a penalty, the term PERSON as applied to any unincorporated entity shall mean the partners or members thereof, and as applied to a corporation, the officers thereof, and in the case of any unincorporated entity or corporation not having any partner, member or officer within the City of Tipp City, any employee or agent of such unincorporated entity or corporation who can be found within the corporate limits of the City of Tipp City, who as such officer, employee or member is under a duty to perform the act in respect of which the violation occurs.

PLACE OF BUSINESSES means any BONA FIDE office (other than a mere statutory office), factory, warehouse, or other space which is occupied and used by the taxpayer in carrying on any business activity individually or through one or more of his regular employees regularly in attendance.

RESIDENT means a person, whether an individual, association, corporation or other entity domiciled in the City of Tipp City. In the case of an individual, whoever maintains a place of abode within the City of Tipp City for a total of 183 days or more within any twelve (12) month period shall be deemed a resident.

RESIDENT UNINCORPORATED BUSINESS ENTITY means an unincorporated business entity having an office or place of business within the City of Tipp City.

RETURN PREPARER means any person other than a taxpayer that is authorized by a taxpayer to complete or file an income tax return, report, or other document for or on behalf of the taxpayer.

SCHEDULE C means Internal Revenue Service Schedule C (or whatever form the IRS uses for this purpose) filed by a taxpayer pursuant to the Internal Revenue Service Code.

TAXABLE INCOME means gross wages, salaries, and other compensation paid by an employer or employers before any deduction, other than ordinary and necessary business expenses in the same manner as provided by the Internal Revenue Code, and the net profits from the operation of a business, profession or other enterprise or activity adjusted in accordance with the provisions of the Ordinance and these Regulations.

TAXABLE YEAR means the calendar year, or the fiscal year used as the basis on which net profits are to be computed under the Ordinance, and in the case of a return for a fractional part of a year, the period for which such return is required to be made. Unless approved by the Administrator, the taxable year of a wage earner shall be a calendar year.

TAXPAYER means an individual, association, corporation or other entity required by the Ordinance to file a return and/or to pay a tax.

In all definitions and these Regulations the singular shall include the plural and the masculine shall include the feminine and the neuter.

ARTICLE III – IMPOSITION OF TAX

A. Bases

1. Resident Employee:

a. In the case of residents of the City of Tipp City, an annual tax of one percent (1.0%) is imposed on all salaries, wages, commissions, and other compensation earned during the effective period of the Ordinance. For the purpose of determining the tax on the earnings of resident taxpayers taxed under Section III, Paragraph A-1 of the Ordinance, the source of the earnings and the place or places in or at which the services were rendered, are immaterial. All such earnings wherever earned or paid are taxable.

b. The following are items, which are subject to the tax imposed by Section III, Paragraph A-1 of the Ordinance.

1. Salaries, wages, bonuses and incentive payments earned by an individual whether directly or through an agent and whether in cash or in property for services rendered during the tax period as:

.01 An officer, director or employee of a corporation (including charitable and other non-profit organizations), joint stock associations, or joint stock company.

.02 An employee (as distinguished from a partner or member) of a partnership, limited partnership, or any form of incorporated enterprise owned by two (2) or more persons.

.03 An employee (as distinguished from a proprietor) of a business, trade or profession conducted by an individual owner.

.04 An officer or employee (whether elected, appointed or commissioned) of the United States Government, or any of its agencies; or of the State of Ohio or any of its political subdivisions or agencies thereof; or any foreign country or dependency except as provided in Section III of the Ordinance.

.05 An employee of any other entity or person, whether based upon hourly, daily, weekly, semi-monthly, monthly, annual, unit of production or piece work rates; and whether paid by an individual, partnership, association, corporation (including charitable and other non-profit corporation, governmental administration, agency, authority, board, body, branch, bureau, department, division, subdivision, section or unit, or any other entity.

2. Commissions earned by a taxpayer whether directly or through an agent and whether in cash or in property for services rendered during the effective period of the Ordinance, regardless of how computed or by whom or wherever paid.

.01 If amounts received as a drawing account exceed the commissions earned and the excess is not subject to the demand of the employer for repayment, the tax is payable on the amounts received as a drawing account.

.02 Amounts received from an employer for expenses and used as such by the individual receiving them are not deemed to be compensation if the employer deducts such expenses or advances as such from his gross income for the purpose of determining his net profits taxable under Federal law, and the employee is not required to include such receipts as income on his Federal income tax return.

.03 If commissions are included in the net earnings of the trade, business, profession, enterprise, or activity, carried on by an unincorporated entity of which the individual receiving such commission is owner or part owner and there fore subject to the tax under Section III, Paragraph A-3 or A-4 of the Ordinance, they shall not be taxed under Section III, Paragraph A-1.

3. Fees, unless such fees are properly includible as part of the net profits of a trade, business, profession, or enterprise regularly carried on by an unincorporated entity owned or partly owned by said individual and such net profits are subject to the tax under Section III, Paragraph A-3 of the Ordinance.

4. Other compensation, including tips, bonuses or gifts of any type in connection with services rendered, and including compensation paid to domestic servants, casual employees and types of employees.

5. Stock Options Exercised

.01 Qualified: When stock acquired under a qualified stock option is sold or exchanged before it is held 3 years, there may be ordinary income (difference between option price and market value on date of exercise) plus capital gain for any amount received above the market value on date of exercise. That portion considered to be ordinary income is subject to municipal tax. That portion considered capital gain is not taxable. Stock Options or other compensation received in the form of property are taxable when included on Form W-2 or Form 1099 for federal purposes.

.02 Non-qualified: Based on IRS Code Section 421, the employee will realize income at the time when the option is exercised and the spread between the option price and the fair market value of the stock will be compensation taxable as ordinary income at the time of exercise. Contributions of (or premiums paid by) the employer in the case of nonqualified plans are taxable when made and reported on IRS Form W-2 or Form 1099.

6. Royalties

.01 Royalties are taxable if not taxed by the State as productive intangible investments, such as income from patents and copyrights. Royalties derived from land leases (mineral rights, oil, gravel, etc. are taxable.

7. Retirement Plans

.01 Contributions by an individual to the following retirement plans are not to be excluded from taxable income:

- .001 Keogh Plans
- .002 Individual Retirement Accounts (IRA)
- .003 Deferred Compensation Plans
- .004 Tax Shelter Annuities
- .005 401-K Plans

(a) Other Plans: There are varying types of retirement and benefits employers may establish for their employees. Due to this variety, no specific statement as to the taxable and non-taxable status to the employee can be made. The determination of the taxable status of these plans will be on an individual basis.

(b) Contributions to S.T.R.S. and P.E.R.S. reported as "picked up" by a public employer on behalf of an employee are not excludable from gross income for city tax purposes and are subject to withholding

8. Gambling Winnings

.01 Amount received as gambling winnings and reported on IRS Form W-2G or Form 5754 and or any other form from the Internal Revenue Service that reports winnings from gambling. Gambling includes but is not limited to: bingo, keno, slot machines, casino games, horse racing, jai alai, sweepstakes, wagering pools, lotteries, prizes and any other wagering transactions.

9. Group Term Insurance

.01 Employer paid premiums for group term life insurance for coverage up to \$50,000 are not taxed to the employee. The cost of coverage over \$50,000 provided by one or more employers is taxable to the employee in the tax year in which the premiums are paid.

10. Moving Expenses

.01 All reimbursements and other payments to both old and new employees for moving expenses are to be included in gross income. (I.R.S. Code Section 82. For allowable expenses refer to Section 217 I.R.S. Code.)

11. Payments made to employees by an employer, as vacation wages are taxable. Payments made to an employee by an employer under a wage continuation plan during periods of disability or sickness are taxable.

.01 Where compensation is paid or received in property, its fair market value, at the time of receipt, shall be subject to the tax and to withholding. Board, lodging and similar items received by an employee in lieu of additional cash compensation shall be included in earnings at their fair market value.

12. In the case of domestics and other employees whose duties require them to live at their place of employment or assignment, board and lodging shall not be considered as wages or compensation earned.

13. Distributions to individual owners, who are residents of Tipp City, from Pass-through Entities not doing business in Tipp City. Individuals will be allowed a proportionate credit for municipal income taxes paid by the pass-through entity to other municipalities.

a. Effective January 1, 2003, a Tipp City resident's distributive share of the net profits earned, accrued or received from a Pass-through Entity (S-Corporation, Partnership, LLC, LLP, Trust, etc...), which is **not** located, or does **not** do business, in Tipp City, is no longer taxable. Gains and/or losses from a Pass-through Entity Form K-1 should not be reported on a Tipp City resident's personal tax return.

14. Recapture of Depreciation

.01 Any amount or value received on a sale, exchange or other disposition of tangible personal or real property used in business, in excess of book value, shall be treated as taxable income under the chapter, to the extent of depreciation allowed or allowable.

15. Covenant not to compete

.01 Income received as a result of a covenant not to compete shall be treated as taxable income.

2. Non-Resident Employee:

a. In the case of individuals who are not residents of the City of Tipp City, there is imposed under Section III, Paragraph A-2 of the Ordinance, a tax of one percent (1.0%) on all salaries, wages, commissions, and other compensation earned during the effective period of the Ordinance for work done or services performed or rendered within the City of Tipp City whether such compensation or remuneration is received or earned directly

or through an agent and whether paid in cash or in property. The location of the place from which payment is made is immaterial.

b. Non-resident employees whose entire earnings for the tax period are paid by an employer, need not file a tax return provided the employer of such non-resident employee has filed a return or report in which such employee's entire and only earnings and municipal tax withheld are reported to the Administrator.

c. On and after January 1, 2001, the City of Tipp City shall not tax the compensation paid to a nonresident individual for personal services performed by the individual in the municipal corporation on twelve (12) or fewer days in a calendar year unless one (1) of the following applies.

1. The individual is an employee of another person; the principal place of business of the individual's employer is located in another municipal corporation in this state that imposes a tax applying to compensation paid to the individual for services performed on those days; and the individual is not liable to that other municipal corporation for tax on the compensation paid for such services.

2. The individual is a professional entertainer or professional athlete, the promoter of a professional entertainment or sports event, or an employee of such a promoter, all as may be reasonably defined by the city of Tipp City.

3. For the purposes of the twelve (12) day calculation, "Day" means any part of a 24-hour calendar day where compensation is earned in the City of Tipp City.

4. Beginning with the thirteenth (13th) day, the individual shall no longer be considered an occasional entrant and is liable for taxes on income earned for the first twelve (12) days.

d. The items subject to tax under Section III, Paragraph A-2 of the Ordinance are the same as those listed and defined in Article III, A-1 of these Regulations. For the methods of computing the extent of such work or services performed within the City of Tipp City, in cases involving compensation for personal services partly within and partly without the City, see Article VI-A6 of these Regulations.

3. a. Resident Unincorporated Businesses:

1. In the case of resident unincorporated businesses, professions, enterprises, undertakings or other activities conducted, operated, engaged in, prosecuted or carried on, irrespective of whether such taxpayer has an office or place of business in the City of Tipp City, there is imposed an annual tax of one percent (1%) on the net profits earned, accrued or received during the effective period of the Ordinance attributable to the City of Tipp City, under the formula or separate accounting method provided for in Section III of the Ordinance derived from sales made, work done or services performed or rendered and business or other activities conducted in the City of Tipp City.

2. The tax imposed on resident associations or other unincorporated entities owned by two (2) or more persons is upon the entities rather than the individual members or owners thereof but the tax imposed on an unincorporated resident entity owned by one (1) person is upon the individual owner. For tax on that part of a resident owner's distributive share of net profits not taxed against the entity, see Article III-A-3b.

3. No tax is imposed on a limited partner's share of a limited partnership's profit. A limited partner of a limited partnership is not permitted to report his share of a limited partnership's loss.

4. The tax imposed by Section III, Paragraph A-3a of the Ordinance is imposed on all resident unincorporated entities having net profits attributable to the City of Tipp City under the method of allocation provided for in the Ordinance, regardless of where the owner or owners of such resident unincorporated business entity reside.

5. Resident unincorporated entities owned by two (2) or more persons all of whom are residents of the City of Tipp City shall disregard the method of allocation provided for in the Ordinance and pay the tax on their entire net profits thereof. In such case, the tax paid by distributive share of such net profits; however, an additional return shall be required from any such owner or member having taxable income other than the distributive share of the net profits from the entity.

b. Imposition of Tax on Resident's Distributive Share of Profits of a Resident Unincorporated Business Entity, Not Attributable to the City of Tipp City.

1. A resident individual who is sole owner of a resident unincorporated entity shall disregard the business allocation formula and pay the tax on the entire net profits of his resident unincorporated business entity.

2. In the case of a resident individual partner or part owner of a resident unincorporated entity, there is imposed an annual tax of one percent (1%) on such individual's distributive share of net profits earned, accrued or received during the effective period of the Ordinance not attributable to the City of Tipp City under the method of allocation provided for in Section III of the Ordinance, and not taxed against the entity.

(a). Effective January 1, 2003, a Tipp City resident's distributive share of the net profits earned, accrued or received from a Pass-through Entity (S-Corporation, Partnership, LLC, LLP, Trust, etc...), which is **not** located, or does **not** do business, in Tipp City, is no longer taxable. Gains and/or losses from a Pass-through Entity Form K-1 should not be reported on a Tipp City resident's personal tax return.

4. a. Imposition of Tax on Net Profits of Non-Resident Unincorporated Businesses:

1. In the case of non-resident unincorporated businesses, professions, enterprises, undertakings, or other activities conducted, operated, engaged in prosecuted or carried on, there is imposed an annual tax of one percent (1%) on the net profits earned, accrued or received during the effective period of the Ordinance attributable to the City of Tipp City under the formula or separate accounting method provided for in Section III of the Ordinance.

2. The tax imposed on non-resident unincorporated entities owned by two (2) or more persons is upon the entities rather than the individual members or owners thereof. For tax on that part of a resident owner's distributive share of net profits not taxed against the entity, see Article III-A-4b of these Regulations.

3. Non-resident unincorporated entities owned by two (2) or more persons all of whom are residents of the city of Tipp City may elect to disregard the method of allocation provided for in the Ordinance and pay the tax on the entire net profits. In such case, the tax paid by the entity shall constitute all tax due from the owners or members of the entity for their distributive share of the net profits, however, an additional return shall be required from such owner or share of the net profits, however, an additional return shall be required from such owner or member having taxable income other than the distributive share of the net profits from the entity.

b. Imposition of Tax on Resident's Share of Profits of a Non-Resident Unincorporated Business Entity Not Attributable to the City of Tipp City.

1. A resident individual who is sole owner of non-resident unincorporated business entity shall disregard the business allocation formula and pay the tax on the entire net profits of his unincorporated entity.

2. In the case of a resident individual partner or part owner of a non-resident unincorporated entity, there is imposed an annual tax of one percent (1%) on such individual's distributive share of net profits earned, accrued or received during the effective period of the Ordinance not attributable to the City of

Tipp City under the method of allocation provided for in Section III of the Ordinance and not taxed against the entity.

(a). Effective January 1, 2003, a Tipp City resident's distributive share of the net profits earned, accrued or received from a Pass-through Entity (S-Corporation, Partnership, LLC, LLP, Trust, etc...) which is **not** located, or does **not** do business, in Tipp City, is no longer taxable. Gains and/or losses from a Pass-through Entity Form K-1 should not be reported on a Tipp City resident's personal tax return.

5. Imposition of Tax on Net Profits of Corporations:

a. In the case of corporations, whether domestic or foreign and whether or not such corporations have an office or place of business in the City of Tipp City there is imposed an annual tax of one percent (1%) on the net profits earned, received or accrued during the effective period of the Ordinance attributable to the City of Tipp City under the formula or separate accounting method provided for in Section III of the Ordinance.

b. In the case of Pass-through entities (partnership, S corporation, LLC, or any other class of entity the income or profits from which are given pass-through treatment under the Internal Revenue Code), whether domestic or foreign and whether or not such pass-through entities have an office or place of business in the City of Tipp City, there is imposed an annual tax of one percent (1.0%) on the net profits earned, received or accrued during the effective period of the Ordinance attributable to the City of Tipp City under the formula or separate accounting method provided for in Section III of the Ordinance.

c. A legal corporation is taxable as a separate entity for municipal tax purposes and distributions.

d. In determining whether a corporation is conducting a business or other activity in the City of Tipp City, the provisions of Article III-B of these Regulations shall be applicable.

e. Corporations, which are required by the provisions of Section 5727.38 to 5727.42, inclusive, of the Revised Code of Ohio, to pay an excise tax in any taxable year as defined by the Ordinance, may exclude that part of their gross receipts upon which the excise tax is paid. In such case, expenses incurred in the production of such gross receipts shall not be deducted in computing net profits subject to the tax imposed by the Ordinance.

6. Amplification

In amplification of the definition contained in Article II of these Regulations but not in limitation thereof, the following additional information respecting net business profits is furnished.

a. NET PROFITS

1. Net Profits as used in the Ordinance and these Regulations means net profits derived from any business, profession or other activity or undertaking carried on for profit or normally carried on for profit.

2. Net Profits as disclosed on any return filed pursuant to the provisions of the Ordinance shall be computed by the same accounting method used in reporting net income to the Federal Internal Revenue Service (providing such method does not conflict with any provisions of the Ordinance). Net profits, shown on returns filed pursuant to the Ordinance must be reconciled with the income reported to the Federal Internal Revenue Service.

b. GROSS RECEIPTS

1. Gross Receipts shall include, but not be limited to, income in the form of commissions, fees, rentals from real and tangible personal property, and other compensation for work done or services performed or rendered as well as income from sales of stock in trade.
2. From gross receipts there shall be deducted allowable expenses to arrive at the net profit subject to tax.

c. EXPENSES

1. All ordinary and necessary expenses of doing business, including reasonable compensation paid employees, shall be allowed but no deduction may be claimed for salary or withdrawal of a proprietor or of the partners, members, or other owners of an unincorporated business or enterprise.

.01 If not claimed as part of the cost of goods sold or elsewhere in the return filed, there may be claimed and allowed a reasonable deduction for depreciation, depletion, obsolescence, losses resulting from theft or casualty, not compensated for by insurance or otherwise of property used in the trade or business, but the amount may not exceed that recognized for the purpose of the Federal income tax. Provided, however, that loss on the sale, exchange or other disposition of depreciable property or real estate, used in the taxpayer's business shall not be allowed as a deductible expense

.02 Current amortization of emergency facilities under the provisions of the Internal Revenue Code, if recognized as such for Federal income tax purposes, may be included as an expense deduction hereunder.

.03 Where depreciable property is voluntarily destroyed only the cost of such demolition and the undepreciated balance thereof will be allowed as an expense in the year of such demolition, to the extent allowable for Federal income tax purposes.

.04 Bad debts in a reasonable amount may be allowed in the year ascertained worthless and charged off, or at the discretion of the Administrator (if the reserve method is used), a reasonable addition to the reserve may be claimed, but in no event shall the amount exceed the amount allowable for Federal income tax purposes.

.05 Only taxes directly connected with the business may be claimed as a deduction. If for any reason the income from property is not subject to the tax, then taxes on and other expenses of said property are not deductible. In any event, the following taxes are not deductible from income: (1) the tax under the Ordinance; (2) Federal or other taxes based upon income; (3) gift, estate or inheritance taxes; and (4) taxes for local benefits or improvements to property which tend to appreciate the value thereof.

.06 When required to travel, an employee may deduct travel expenses, when not reimbursed for same. Federal Tax Form 2106 will be filled out with the City tax return. Schedule A – Expenses are personal deductions of a wage earner; not deductible for city income tax purposes.

.07. The following expenses are not deductible: ½ Self Employment Tax; Self Employed Health Insurance Premiums; Greater than 2% S-Corp owner Health Insurance Premiums; the Federal Non-Deductible Portion of Meals and Entertainment.

.08. In general, non-taxable income and expenses incurred in connection therewith are not to be considered in determining net profits. Income from intangible, by way of dividends, interest and the like, shall not be included if such income is subject to taxation under the intangible personal property laws of the State of Ohio or is specifically exempt from taxation under said law.

.09. If the taxpayer reports income that is non-taxable under the Ordinance and such amounts are deducted in order to reconcile the City of Tipp City return with the taxpayer's Federal income tax return, expenses attributable to this non-taxable income shall not be allowed. In the absence of records

showing the actual expenses attributable to such non-taxable income, and upon approval of the Administrator, such amount shall be deemed to equal five percent (5%) of such non-taxable income.

.10. Capital gains and losses from sale, exchange or other disposition of property shall not be taken into consideration in arriving at net profits earned. Any amount or value realized on a sale, exchange or other disposition of tangible personal property used in business, in excess of book value, shall be treated as taxable income under the Ordinance to the extent of depreciation allowed or allowable. The balance shall be treated as a capital gain.

001. Definition of Property Used in the Trade or Business. For purposes of this Article, the term "property used in the trade or business" means property used in the trade or business of a character which is subject to the allowance for depreciation and real property used in the trade or business, held for more than six (6) months, which is not:

- a. Property of a kind which would properly be includible in the inventory of the taxpayer if on hand at the close of the taxable year.
- b. Property held by the taxpayer primarily for sale to customers in the ordinary course of his trade or business; or
- c. A copyright, a literary, musical, or artistic composition, or similar property held by the taxpayer.

7. Rentals from Real Property

- a. As a general rule, rental of real estate for purposes of the City of Tipp City Income Tax Ordinance constitutes the operation of a business, and net profits are subject to taxation hereunder.
- b. Rentals received by the taxpayer are to be included only if and to the extent that the rental, ownership, management or operation of the real estate from which such rentals are derived (whether so rented, managed or operated by the taxpayer individually or through agents or other representatives) constitutes a business activity of the taxpayer in whole or in part.
- c. Where the gross monthly rental of any real properties, regardless of number and value, aggregate in excess of One Hundred Dollars (\$100.00) per month, it shall be prima facie evidence that the rental, ownership, management or operation of such properties is a business activity of such taxpayer, and the net income of such rental properties shall be subject to tax; provided that in case of commercial property, the owner shall be considered engaged in a business activity when the rental is based on a fixed or fluctuating percentage of gross or net sales, receipt or profits of the lessee, whether or not such rental exceeds One Hundred Dollars (\$100.00) per month; provided further that in the case of farm property, the owner shall be considered engaged in a business activity when he shares in the crops or when the rental is based on a percentage of the gross or net receipts derived from the farm, whether or not the gross income exceeds One Hundred Dollars (\$100.00) per month; and provided further that the person who operates a rooming house of five (5) or more rooms rented shall be considered in business whether or not the gross income exceeds One Hundred Dollars (\$100.00) per month.
- d. In determining the amount of gross monthly rental of any real property, periods during which (by reason of vacancy or any other cause) rentals are not received shall not be taken into consideration by the taxpayer.
- e. Rentals received by a taxpayer engaged in the business of buying and selling real estate shall be considered as part of business income.
- f. Real property, as the term is used in this regulation, shall include commercial property, residential property, farm property, and any and all other types of real estate.

g. In determining the taxable income from rentals, the deductible expenses and loss limitations shall be of the same nature, extent, and amount, as are allowed by the Internal Revenue Service for Federal income tax purposes.

h. Residents of the City of Tipp City are subject to taxation upon the net income from rentals (to the extent above specified), regardless of the location of the real property owned.

i. Non-residents of the City of Tipp City are subject to such taxation only if the real property is situated within the City of Tipp City. Non-residents, in determining whether gross monthly rentals exceed One Hundred Dollars (\$100.00), shall take into consideration only real estate situated within the City of Tipp City.

j. Corporations owning or managing real estate are taxable only on that portion of income derived from property located in the City of Tipp City.

k. Taxpayers (Individual and Non-Individual), who are renters, must list the name, address and telephone number of the landlord (property owner) on their tax return.

8. Patents and Copyrights.

a. Income from patents or copyrights is not to be included in net profits subject to the tax if the income from such patents or copyrights is subject to the State of Ohio Intangible tax. Conversely, such tax is not deductible in determining City tax. Such items shall be clearly disclosed on an attachment to be filed with the City tax return.

b. Allocation of Business Profits

A request to change the method of allocation must be made in writing before the end of the taxable year.

1. Separate Accounting Method.

a. The net profits allocable to the City of Tipp City from business, professional or other activities conducted in the City of Tipp City by corporations or unincorporated entities (whether resident or non-resident) may be determined from the records of the taxpayer if taxpayer has bona fide records which disclose with reasonable accuracy what portion of his net profits is attributable to that part of his activities conducted within the City of Tipp City.

b. If the books and records of the taxpayer are used as the basis for apportioning net profits rather than the business allocation formula, a statement must accompany the return explaining the manner in which such apportionment is made in sufficient detail to enable the Administrator to determine whether the net profits attributable to the City of Tipp City are apportioned with reasonable accuracy.

c. In determining the income allocable to the City of Tipp City from the books and records of a taxpayer, an adjustment may be made for the contribution made to the production of such income by headquarters activities of the taxpayer, whether such headquarters is within the City of Tipp City.

2. Business Allocation Percentage Method

a. STEP 1. Ascertain the percentage which the average net book value of real and tangible personal property, including leasehold improvements, owned or used in the business and situated within the City of Tipp City is of the average net book value of all real and tangible personal property, including leasehold improvements, owned or used in the business wherever situated, during the period covered by the return.

1. The percentage of taxpayer's real and tangible personal property within the City of Tipp City is determined by dividing the average net book value of such property within the City of Tipp City (without

deduction of any encumbrances) by the average net book value of all such property within and without the City of Tipp City. In determining such percentage, property rented to the taxpayer, as well as real and tangible personal property owned by the taxpayer, must be considered.

.01 The net book value of real and tangible personal property rented by the taxpayer shall be determined by multiplying gross annual rents payable by eight (8).

.02 Gross rents means the actual sum of money or other consideration payable, directly or indirectly, by the taxpayer for the use or possession of property and includes:

.001 Any amount payable for the use or possession of real and tangible personal property or any part thereof, whether designated as a fixed sum of money or as a percentage of sales profits or otherwise.

.002 Any amount payable as additional rent or in lieu of rent such as interest, taxes, insurance, repairs, or other amounts required to be paid by the terms of a lease or other arrangement.

b. STEP 2. Ascertain the percentage which the gross receipts of the taxpayer derived from sale made, work done, and services rendered in the City of Tipp City is of the total gross receipts wherever derived during the period covered by the return.

1. The following sales shall be considered Tipp City sales:

.01 All sales made through retail stores located within the City of Tipp City to purchasers within or without the City of Tipp City except such of said sales to purchasers outside the City of Tipp City that are directly attributable to regular solicitations made outside the City of Tipp City personally by the taxpayer or his employee.

.02 All sales of tangible personal property delivered to purchasers within the City of Tipp City if shipped or delivered from an office, store, warehouse, factory, or place of storage located within the City of Tipp City.

.03 All sales of tangible personal property delivered to purchasers within the City of Tipp City even though transported from a point outside the City of Tipp City if the taxpayer is regularly engaged through its own employees in the solicitation or promotion of sales within the City of Tipp City and the sale is directly or indirectly the result of such solicitation.

.04 All sales of tangible personal property shipped from an office, store, warehouse, factory, or place of storage within the City of Tipp City to purchasers outside the City of Tipp City if the taxpayer is not, through its own employees regularly engaged in the solicitation or promotion of sales at the place of delivery.

.05 Charges for work done or services performed incident to a sale, whether or not included in the price of the property, shall be considered gross receipts from such sale.

2. In the application of the foregoing sub-paragraphs, a carrier shall be considered the agent of the seller regardless of the FOB point or other conditions of the sale; and the place at which orders are accepted or contracts legally consummated shall be immaterial. Solicitation of customers outside the City of Tipp City by mail or phone from an office, or place of business within the City of Tipp City shall not be considered as solicitation of sales outside the City of Tipp City.

c. STEP 3. Ascertain the percentage which the total wages, salaries, commissions and other compensation of employees with the City of Tipp City is of the total wages, salaries, commissions and other compensation of all the taxpayer's employees with the and without the City of Tipp City during the period covered by the return.

1. Salaries and reasonable compensation paid owners or credited to the account of owners or partners during the period covered by the return are considered wages for the purpose of this computation.
2. Wages, salaries, and other compensation shall be computed on the cash or accrual basis in accordance with the method of accounting used in the computation of the entire net income of the taxpayer.
3. In the case of an employee who performs services both within and without the City of Tipp City, the amount treated as compensation for services performed within the City shall be deemed to be:

.01 In the case of an employee whose compensation depends directly on the volume of business secured by him, such as a salesman on a commission basis, the amount received by him for the business attributable to his efforts within the City of Tipp City.

.02 In the case of an employee whose compensation depends on other results achieved, the proportion of the total compensation received which the value of his services within the City of Tipp City bears to the value of all his services; and In the case of an employee compensated on a time basis, the proportion of the total amount received by him which his working time within the City of Tipp City if of his total working time.

d. STEP 4. Add the percentages determined in accordance with Steps 1,2, and 3 or such of the aforesaid percentages as may be applicable to the particular taxpayer's business and divide the total so obtained by the number of percentages used in ascertaining said total. The result so obtained is the business allocation percentage. In determining the average percentage, a factor shall not be excluded from the computation merely because said factor is found to be allocable entirely outside the City of Tipp City. A factor is excluded only when it does not exist anywhere,

e. STEP 5. The business allocation percentage determined in Step 4 above shall be applied to the entire taxable net profits of the taxpayer wherever derived to determine the net profits allocable to the City of Tipp City.

3. Substitute Method:

a. In the event a just and equitable result cannot be obtained under the formula, the Administrator, upon application of the taxpayer, may substitute other factors in the formula or prescribe other methods of allocating net income calculated to effect a fair and proper allocation.

b. Application to the Administrator to substitute other factors in the formula or to use a different method to allocate net profits must be made in writing before the end of the taxable year. The application shall state the specific grounds on which the substitution of factors or use of a different method is requested and the relief sought to be obtained. No specific form need be followed in making such application. Once a taxpayer has filed under a substitute method, he must continue to so file until given permission to change by the Administrator.

Operating Losses

1. Net losses incurred during any taxable period, in a business or other activity subject to the Ordinance, are deductible from all the taxable net profits and earnings, for the same period, included in the taxpayer's return.
2. Losses are deductible only in the taxable period in which they are incurred.
3. Business Losses (Schedule C, C-EZ, E, F, Form 4835, etc...) of Tipp City Residents may be used to offset Earned Income, when the losses are incurred in Tipp City or in a jurisdiction having a tax rate less than the Tipp City tax rate. When such losses are incurred in another city, only the portion of the loss attributable to the difference in tax rates may be used as an offset. The actual location of the loss must be

considered, when determining if a loss is allowable.

D. Consolidated Returns

1. Consolidated returns may be filed by a group of corporations who are affiliated through stock ownership provided such group files consolidated returns for Federal income tax purposes. For a subsidiary corporation to be included in a consolidated return, eighty percent (80%) of its stock must be owned by the other members of the affiliated group. A consolidated return must include all companies, which are so affiliated.
2. Once a consolidated return has been filed for any taxable year, the consolidated group must continue to file consolidated returns in subsequent years unless:
 - a. Permission in writing is granted by the Administrator to file separate returns.
 - b. A new corporation other than a corporation created or organized by a member of the group has become a member of the group during the taxable year.
 - c. A corporation member of the group is sold or exchanged. Liquidating a corporation or merging one of the corporations of the group into another will not qualify the group for filing separate returns.
3. If a corporation becomes a member of the group during the taxable year, the consolidated return must include the income for the entire taxable year of the common parent corporation and any subsidiaries which were members of the group for the entire year, plus the income of each subsidiary which becomes a member of the group during the year for the period beginning with the date it becomes a member of the affiliated group. For the period prior to the time any subsidiary became a member of the group, separate returns must be filed for that subsidiary. When a subsidiary ceases to be a member of the affiliated group, the consolidated return must include the income of such subsidiary for the period during which it was a member of the group, but for the period after it ceases to be a member, separate returns must be filed. If a corporation has been a member of the affiliated group for less than one (1) month of the taxable year of the group, it may be considered as not being part of the group. Similarly, a subsidiary may be considered as being a member of the affiliated group the entire taxable year of the group if the period during which it was not a member of the group does not exceed one (1) month. If a subsidiary is a member of the consolidated group for only part of a taxable year, the income considered to be earned in such fractional part of the year shall be that portion of the net income for the entire year which the number of days it was a member of the group bears to the total number of days in the taxable year.
4. In determining the allocation fraction where a corporation becomes a member of the group or ceases to be a member of the group during the taxable year, the property factor (Step 1 of the formula) shall be determined on the basis of the average net book value of the property during the period such corporation was a member of the group. The rental portion factor, however, shall be computed at eight (8) times the annual rent. The gross receipts and wage factors shall be based on the actual figures.
5. All subsidiary corporations must agree in writing to the filing of the consolidated return, as they will be liable for the tax as well as the parent corporation.
6. In consolidating the net income, the taxable income of each corporation shall be computed in accordance with the provisions governing the taxable income of separate corporations except that there shall be eliminated unrealized profits and losses in transactions between members of the affiliated group.
7. In determining expenses that are not allowable because they are allocable to non-taxable income, such calculations shall be based on the consolidated net income. As an example, inter-company dividends, which are eliminated in the consolidation, will not be taken into consideration in determining non-taxable income.

E. Exceptions

The following shall **not** be considered taxable:

1. Poor relief, unemployment insurance benefits, supplemental unemployment benefits, old age pensions or similar payments received from local, state or federal governments or charitable or religious organizations, and distributions from qualified retirement plans as defined by the IRS.
2. Proceeds of insurance, annuities, workmen's compensation insurance, social security benefits, pensions, compensation for damages for personal injuries and like reimbursement, not including damages for loss of profits.
3. Compensation for damage to property by way of insurance or otherwise.
4. Interest and dividends from intangible property.
5. Alimony
6. Compensation paid under section 3501.28 or 3501.36 of the Ohio Revised Code to a person serving as a precinct official, to the extent that such compensation does not exceed one thousand dollars (\$1,000) annually. Such compensation in excess of one thousand dollars (\$1,000) may be subjected to taxation. The payer of such compensation is not required to withhold Tipp City income tax from that compensation.
7. The income of a public utility when that public utility is subject to the tax levied under section 5727.24 or 5727.30 of the Ohio Revised Code, except starting January 1, 2002, the income of an electric company or combined company, as defined in section 5727.01 of the Ohio Revised Code, may be taxed by a municipal corporation subject to Chapter 5745 of the Ohio Revised Code.
8. On and after January 1, 2001, the City of Tipp City shall not tax the compensation paid to a non-resident individual for personal services performed by the individual in the municipal corporation on twelve (12) or fewer days in a calendar year unless one (1) of the following applies:
 - a. The individual is an employee of another person; the principal place of business of the individual's employer is located in another municipal corporation in this state that imposes a tax applying to compensation paid to the individual for services performed on those days; and the individual is not liable to that other municipal corporation for tax on the compensation paid for such services.
 - b. The individual is a professional entertainer or professional athlete, the promoter of a professional entertainment or sports event, or an employee of such a promoter, all as may be reasonably defined by the City of Tipp City.
 - c. For the purpose of the twelve (12) day calculation, "Day" means any part of a 24-hour calendar day where compensation is earned in the City of Tipp City.
 - d. Beginning with the thirteenth (13th) day, the individual shall no longer be considered an occasional entrant and is liable for taxes on income earned for the first twelve (12) days
9. The following sub-sections of Section 5728 of the Ohio Revised Code exempt the types of companies listed below from paying municipal income tax by reason of paying excise taxes to the state.
 - a. Electric light, gas, intra-state, toll bridges, messenger, natural gas, telephone, union depot, and water transportation.
 - b. Express and telegraph

- c. Railroads and interurban, street and suburban railroad
- d. Pipe lines

10. Under the Doctrine of Preemption, the Ohio Supreme Court has held that the types of companies enumerated in the following sections are not subject to municipal taxes:

- a. 5725.18 Domestic Insurance Companies
- b. 5729.03 Foreign Insurance Companies
- c. 4923.11 Private Motor Carriers

11. State Banks cannot be taxed on their income from intangibles, but are taxable on other income the same as other corporations. (Ohio Finance vs. City of Toledo).

12. When a domestic insurance company has filed a certificate that it is so classified, it need not file a declaration of final return (5725.18 Revised Code).

13. Military pay and allowances received as a member of the armed forces (active duty) of the United States. In the case of members of the National Guard, Air National Guard, Organized Reserves and Air Reserves, this exception shall apply only to their drill and flight pay.

14. Any charitable, educational, fraternal or other type of non-profit association or organization enumerated in Section 718.01 of the Revised Code of Ohio, which is exempt from payment of real estate taxes, is exempt from payment of the tax imposed by the Ordinance.

- a. Any association or organization failing in the category listed in the preceding paragraph not exempt from the payment of real estate taxes is required to file declarations and final returns and remit the taxes levied under the Ordinance on all business activities of a type ordinarily conducted for profit by taxpayers operating for profit.
- b. Where such non-profit association or organization conducts income-producing business both within and without the corporate limits, it shall calculate its profits allocable to the City of Tipp City under the method or methods provided above.

F. Vow of Poverty

1. Salaries and wages are not considered received by the individual member but by the order of organization. Section 501d of the I.R.S. Code prohibits taxation of apostolic associations or organizations.

G. Bankruptcy

- a. Taxes are not cancelled by a discharge in bankruptcy and any balance due may be collected in a civil suit.
- b. Interest and penalties accruing after the filing of a petition in bankruptcy are recoverable (Bruning vs. 192 Federal Supplement 826).

ARTICLE IV – EFFECTIVE PERIOD

A. The tax imposed by Section III, Paragraph A-1 and A-2 of the Ordinance shall be levied, collected and paid with respect to salaries, wages, bonuses, incentive payments, commissions, fees, and other compensation

received and shall be levied with respect to the net profits of businesses, professions and other activities earned, and accrued or received on and after October 1, 1981.

ARTICLE V - RETURN AND PAYMENT OF THE TAX

A. Date and Requirement for Filing:

1. On or before April 30 of the year following the effective date of the Ordinance and each year thereafter, every person subject to the provisions of Section III, Paragraph A-1 to A-5, inclusive, of the Ordinance shall, except as hereinafter provided, make and file with the Administrator, a return on a form prescribed by and obtainable upon request from the Administrator, whether or not a tax is due. The City of Tipp City shall accept a generic form of any return, report, or document required to be filed if the generic form, once completed and filed, contains all of the information required to be submitted with the City of Tipp City's prescribed returns, reports or documents, and if the taxpayer or return preparer filing the generic form otherwise complies with the rules or ordinances of the City of Tipp City governing the filing of returns, reports or documents.

a. A generic income tax return must contain the following to be accepted as a valid City of Tipp City income tax return:

1. City of Tipp City Account Number;
2. Taxpayer's Social Security or Federal Employer Identification Number;
3. Schedules X & Y for the business tax returns
- b. The credit section must show:
 1. Tax paid to the City of Tipp City;
 2. Tax paid to other cities not to exceed 1.0%, per city;
 3. Estimated taxes paid during the current year;
 4. Prior year overpayments.
5. A line indicating amounts for penalty, interest, late fees and a total line for these amounts
6. A statement as follows: "I certify I have examined this return including accompanying schedules and payments, declare that it is true, correct and the figures used herein are accurate." If prepared by a person other than the taxpayer, the declaration is based on all information which the preparer has any knowledge.
7. All applicable federal schedules, forms and statements;
8. If the taxpayer is a renter, list the name and address of landlord

2. If the return is made for a fiscal year or any period less than a year, said return shall be made within four (4) months from the end of such fiscal year or other period.

3. Every person subject to the provisions of Section III of the Ordinance shall, except as hereinafter provided, file a return setting forth the aggregate amount of salaries, wages, commissions and other personal service compensation, net profits from business or other activities, including the rental from real and personal property, and other income taxable under the Ordinance, earned or received for the period covered by the return and such other pertinent facts and information in detail as the Administrator may require.

4. Each person residing in the City eighteen years of age or older, shall be required to file a City Income Tax Return.
5. Non-resident employees whose entire earnings are paid by an employer, need not file a tax return, provided the employer of such non-resident employee has filed a return or report in which such employee's entire and only earnings and municipal income tax withheld are reported to the Administrator.
6. An employee who is permitted to deduct business expenses from gross wages, salaries, or commissions must file a return in order to claim such deductions even though all or part of such wages, salaries, or commissions are subject to withholding.
7. Any taxpayer who received taxable income not subject to withholding under the Ordinance must file a return.
8. Any taxpayer having income, wages, or other compensation for which a return must be filed, and also having net profits from a business covering the same or a different period, is required to file only one (1) return.
9. Trustees of active trusts are required to file returns and pay the tax on the taxable income thereof.
10. Except as provided for herein, the tax is on the partnership or association as an entity, whether resident or non-resident, and a return is required disclosing the net profits allocable to the City of Tipp City and the tax paid thereon. However, any resident partner or resident member of an unincorporated entity is required to make a return and pay the tax in accordance with Article III-A-3b-2 of these Regulations.
11. A husband and wife may file a joint return.
12. Operating losses from business or professional activities, the profits of which would be taxable under the Ordinance, may be offset against salaries, wages, commissions and other personal service compensation or against net profits from other business or professional activities, when the losses are incurred in Tipp City or in a jurisdiction having a tax rate less than the Tipp City tax rate. When such losses are incurred in another city, only the portion of the loss attributable to the difference in tax rates may be used as an offset. The actual location of the loss must be considered, when determining if a loss is allowable. Such losses are deductible only in the year incurred.

B. Information Required and Reconciliation with Federal Returns:

1. In returns filed hereunder, there shall be set forth the amount of salaries, wages, bonuses, incentive payments, commissions, fees and other compensation subject to the tax earned from each employer, taxable net profits and other pertinent information as the Administrator may require.
2. Where figures of total income, total deduction, and net profits are included, as shown by a Federal return, any items of income which are not subject to the City of Tipp City tax and unallowable expenses shall be eliminated in determining net income subject to the Tipp City tax. In the absence of records showing the actual unallowable expenses, such expenses shall be determined in accordance with Article III-A6-c 1.-.07 of these Regulations. The fact that any taxpayer is not required to file a Federal tax return does not relieve him from filing a City of Tipp City tax return.
3. If a change in Federal, State, or other Municipal income tax liability, made by the Federal Internal Revenue Service, State Department of Taxation, other Municipality or by a judicial decision, results in an additional amount of tax payable to the City of Tipp City, a report of such change shall be filed by the taxpayer within three (3) months after receipt of the final notice from the Federal Internal Revenue Service, State Department of Taxation, other Municipality, or final Court decision. See Article XI-B1 of these Regulations.

4. If a change in Federal, State, or other Municipal income tax liability results in a reduction of taxes owed and paid to the City of Tipp City, a claim for refund shall be filed with the Administrator as prescribed in Section XI-B of the Ordinance and Article XI-B of these Regulations.

C. Extensions:

1. Any taxpayer that has requested an extension for filing a federal income tax return may request an extension for the filing of a City of Tipp City tax return. The taxpayer shall make the request by filing a copy of the taxpayer's request for a federal filing extension with the Tax Administrator.

2. Any taxpayer not required to file a federal income tax return may request an extension for filing a City of Tipp City tax return in writing.

3. The request for extension shall be filed no later than the last day for filing the City of Tipp City income tax return as prescribed by ordinance.

a. A valid extension request extends the due date for filing a return six (6) months from the original due date of such return.

b. The City of Tipp City may deny a taxpayer's request for extension if the taxpayer:

1. Fails to timely file the request;

2. Fails to file a copy of the federal extension;

3. Owes the City of Tipp City any delinquent income tax or any penalty, interest, assessment or other charge for the late payment or nonpayment of income tax;

4. Has failed to file any required income tax return, report or other related document for a prior tax period.

4. The granting of an extension for filing a City of Tipp City income tax return does not extend the last date for payment of the tax; hence, penalty and interest may apply to any unpaid tax during the period of extension at the rate set out by Section X. No penalty shall be assessed in those cases in which the return is filed and the final tax paid within the extension period provided all other filing and payment requirements of the Tax Code have been met. Any extension by the Tax Commissioner shall be granted with the understanding that declaration filing and payment requirements have been fulfilled; however, if, upon further examination it then becomes evident that declaration filing and payment requirements have not been fulfilled, penalty and interest may be assessed in full and in the same manner as though no extension had been granted.

5. Information returns, schedules and statements needed to support tax returns are to be filed within the time limits set forth for filing the tax returns.

D. Payment With Returns:

1. The taxpayer making a return shall, at the time of the filing thereof, pay to the Administrator the amount of taxes shown as due thereon; provided, however, that where any portion of the tax so shall have been deducted at the source pursuant to the provisions of Section VI of the Ordinance or where any portion of said tax shall have been paid by the taxpayer pursuant to the provisions of Section VII of the Ordinance, or where an income tax has been paid to another municipality, credit for the amount so paid in accordance with Article XV of these Regulations shall be deducted from the amount shown to be due and only the balance, if any, shall be due and payable at the time of filing said return.

2. A taxpayer who has overpaid the amount of tax to which the City of Tipp City is entitled under the provisions of the Ordinance may have such overpayment applied against any subsequent liability or, at his election indicated on the return, such overpayment (or part thereof) shall be refunded, provided that no additional taxes or refunds of less than One Dollar and one cent (\$1.01) shall be collected or refunded.

E. Amended Returns.

1. Where necessary an amended return must be filed in order to report additional income and pay any additional tax due, or claim a refund of tax overpaid, subject to the requirements and limitations contained in Section XI and XII of the Ordinance. Such amended return shall be on a form obtainable, on request, from the Administrator. A taxpayer may not change the method of accounting or apportionment of net profits after the due date for filing the original return.

2. Within three (3) months from the final determination of any Federal, State or other Municipal tax liability affecting the taxpayer's Tipp City liability, such taxpayer shall make and file an amended City of Tipp City return showing income subject to the tax based upon such final determination of Federal tax liability, and pay any additional tax shown due thereon or make claim for refund of any overpayment.

ARTICLE VI – COLLECTION OF TAX AT THE SOURCE

A. Duty of Withholding

1. Except as otherwise provided herein, it is the duty of each employer within, or doing business within, the City of Tipp City, who employs one (1) or more persons whether as an employee, officer, director or otherwise, on a salary, wage, commission, or other compensation basis, to deduct, when such salary, wage, commission or other compensation is paid, allocated or set aside, the tax of one per cent (1.0%) from:

a. The gross amount of all salaries, wages, bonuses, incentive payments, fees, commissions or other forms of compensation paid to residents of Tipp City, regardless of the place where the services are rendered; and

b. All compensation paid non-residents for services rendered, work performed or other activities engaged in within the City of Tipp City.

2. All employers within or doing business within the City of Tipp City are required to make the collections and deductions specified in this Article, regardless of the fact that the services on account of which any particular deduction is required, as to residents of the City of Tipp City, were performed outside the City of Tipp City.

3. Employers who do not maintain a permanent office or place of business in the City of Tipp City, but who are subject to tax on net profits attributable to the City of Tipp City, under the method of allocation provided for in the Ordinance, are considered to be employers within the City of Tipp City and subject to the requirement of withholding.

a. Beginning January 1, 2001, If not currently required to withhold City of Tipp City income tax, a nonresident employer, agent of such an employer, or other payer that is not situated in the City of Tipp City shall not be required to deduct and withhold taxes from the taxable income of an individual unless the total amount of tax required to be deducted and withheld for the City of Tipp City on account of all the employer's employees or all of the other payer's payees exceeds one hundred fifty dollars (\$150) for a calendar year.

b. If the total amount of tax required to be deducted and withheld on account of all of the nonresident employer's employees or all of the other payer's payees exceeds one hundred fifty dollars (\$150) for a calendar year, the employer, agent of such an employer or other payer must deduct and withhold taxes in

that calendar year and in each ensuing year even if the amount required to be deducted and withheld in each of those ensuing years is one hundred fifty dollars (\$150) or less, until such time that the tax so deducted and withheld is one hundred fifty dollars (\$150) or less for three consecutive years.

c. A nonresident employer, agent of such an employer, or other payer that is not situated in the City of Tipp City and is exempt from withholding pursuant to this section shall report all taxable income paid to its employees or agents working in the City of Tipp City on an annual basis. This report shall be due on or before the due date of Reconciliation of each year, and shall include a calculation of the total compensation earned in the City of Tipp City by all employees during the preceding calendar year.

4. The mere fact that the tax is not withheld will not relieve the employee of the responsibility of filing a return and paying the tax on the compensation paid. If the employer has withheld the tax and failed to pay the tax withheld to the Administrator, the employee is not liable for the tax so withheld.

5. Commissions and fees paid to professional men, brokers and others who are independent contractors, and not employees of the payer, are not subject to withholding or collection of the tax at the source. Such taxpayers must, in all instances, file a declaration and return and pay the tax pursuant to the provisions of the Ordinance and Articles V and VII of these Regulations.

6. Where a non-resident receives compensation for personal services rendered or performed partly without the City of Tipp City, the withholding employer shall deduct, withhold and remit the tax on that portion of the compensation, which is earned within the City of Tipp City in accordance with the following rules of apportionment:

a. If the non-resident is a salesman, agent or other employee whose compensation depends directly on the volume of business transacted or chiefly effected by him, the deducting and withholding shall attach to the portion of the entire compensation which the volume of business transacted or chiefly effected by the employee within the city of Tipp city bears to the total volume of business transacted by him.

b. The deducting and withholding of personal service compensation of other non-resident employees, including officers of corporations, shall attach to the portion of the personal service compensation of such employee which the total number of his working hours within the City of Tipp City is of the total number of working hours.

c. The fact that non-resident employees are subject to call at any time does not permit the allocation of pay for time worked within the City of Tipp City on a seven (7) day week basis. The percentage of time worked in the City of Tipp City will be computed on the basis of a forty (40) hour week unless the employer notifies the Administrator that a greater or lesser number of hours per week is worked.

d. The occasional entry in the City of Tipp City of a non-resident employee who performs the duties for which he is employed primarily outside the City, shall not be deemed to take such employee out of the class of those rendering their services entirely outside the City of Tipp City.

e. Wage continuation plans paid by the employer for purpose of health, rest, recuperation or other reward are deemed to have the same tax status as the primary job assignment or job location of the employee and are taxable on the same ratio as the normal earnings of such employee for his primary job assignment.

7. An employer shall withhold the tax on the full amount of any advances made to an employee on account of commissions.

8. An employer required to withhold the tax on compensation paid to an employee shall, in determining the amount on which the tax is to be withheld, ignore any amount allowed and paid to the employee for expenses necessarily and actually incurred by the employee in the actual performance of his services provided such expenses are incurred in earning compensation, including commissions, and are not deducted as a business expense by the employee under Article III of these Regulations.

9. An employer whose records show that an employee is a non-resident of the City of Tipp City, and has no knowledge to the contrary, shall be relieved of the responsibility of withholding the tax on personal service compensation paid to such employee for services rendered or work done outside the City of Tipp City by such employee. Provided, however, that such employer must withhold the tax on all personal service compensation paid such employee after the Administrator notifies said employer in writing that such employee is a resident of the city of Tipp City. All employees are required to notify the employer of any change of residence and the date thereof.

10. A Tipp City employer required to withhold the tax from a Tipp City resident for work done or services performed in another municipality, and who does so withhold and remit to such other municipality, shall be relieved from the requirement of withholding the City of Tipp City tax from such Tipp City resident, except where the rate of tax for such other municipality is less than the rate of tax imposed by the Tipp City Income Tax Ordinance. In such case, the employer shall withhold and remit the difference to the City of Tipp City.

11. No person shall be required to withhold the tax on the wages or other compensation paid domestic servants employed exclusively in or about such person's residence, but such employee shall be subject to all of the requirements of the Ordinance.

B. Return and Payment of Tax Withheld and Status of Employers:

1. The deductions from salaries, wages, and other compensation required to be made by employers are to begin with the compensation earned on and after the effective date of the Ordinance. The employer (in addition to any return required to be filed with respect to his own earnings or net profits) shall, on or before the fifteenth (15th) day of each month, make a return and pay to the Administrator, the tax withheld during the preceding month. Provided, however, the Administrator shall have the authority to approve the filing of returns and payment of the tax withheld on a quarterly basis.

a. So long as the taxes withheld by an employer for the City of Tipp City during the measurement period are less than two thousand dollars (\$2,000) for a twelve-month period, payments may be made quarterly on or before the last day of the month following the end of the quarter, subject to the approval of the Tax Administrator. The Tax Administrator may revoke the approval of quarterly filing and payments whenever he has reason to believe that the conditions for granting such authorization have changed, were judged incorrectly, were not met, or when it is in the best interest of the City of Tipp City to do so. Notice of withdrawal shall be made in writing and, in such case, the employer must begin to file in accordance with this Section.

b. The Administration may authorize any employer to file returns and remit the tax withheld on a quarterly basis provided that such authorization does not jeopardize the interest of the City of Tipp City.

c. Any employer who wishes to file and remit on a quarterly basis may request the authority for quarterly filing from the Administrator. Such request must be in writing, stating the name and City of Tipp City withholding account number of the employer; the address to which withholding forms should be mailed; the estimated amount of tax to be withheld each quarter and the name and title of the person responsible for complying with the withholding requirements of the Ordinance.

d. In considering such a request, the Administrator will base his decision on the facts so that the best interests of the City are served. He shall refuse such authority if he has reason to believe that the employer is a below average credit risk, engaged in seasonal or transitory business in fact or as to location, or for any other reason known to him which might place a burden upon the City, or where such request is contrary to the policy of the City. The Administrator will notify the employer, in writing, of the decision made upon his request.

e. If the request is granted, the notice will specify the effective date of the authorization. In such case, the employer shall, on or before the last day of each month following the calendar quarter ending March 31, June 30, September 30 and December 31, make a return and pay to the Administrator the tax withheld

during the preceding calendar quarter. Once this approval is granted, the employer may continue on such basis unless notified, in writing, by the Administrator that approval to file quarterly is withdrawn.

f. The Administrator may withdraw the authorization for quarterly filing and payments whenever he has reason to believe that the conditions for granting such authorization have changed, were judged incorrectly, were not met or when it is to the best interest of the City to do so. Notice of the withdrawal shall be made in writing and may be served in person or mailed to the address where the returns are mailed. Proof of mailing, furnished by the U.S. Post Office, shall be presumptive proof of receipt by the addressee. In such case, the employer must begin to file monthly.

2. If more than the amount of tax, required to be deducted by the Ordinance, is withheld from an employee's pay, such excess may be refunded by the employer or the Administrator, depending upon the circumstances and the time when the over-withholding is determined as follows:

a. Current Employees:

1. If the over-withholding is discovered in the same quarterly period the employer shall make the necessary adjustment directly with the employee and the amount to be reported on the quarterly report as withheld shall be the corrected amount.
2. If the over-withholding is discovered in a subsequent quarter of the same calendar year, the employer may make proper adjustment with the employee. In such case the report for the quarter in which the adjustment is made shall indicate the total amount actually withheld, the amount of the adjustment deducted therefrom, and the corrected amount reported on the report.
3. If the over-withholding is discovered in the following year, the employer should notify the Administrator of such over-withholding and the circumstances thereof. Upon proper verification, the Administrator shall refund to the employee, the amount of such excess withholding.

b. Former Employees:

1. In case too much has been withheld from an employee who is no longer employed by the employer, the employer shall notify the Administrator of the amount and circumstances of such over-withholding and the Administrator shall then refund to the employee the amount of such excess withholding; or
2. If the error is discovered by the employee, such employee shall file a claim with the Administrator and, upon verification thereof by the employer; the Administrator shall refund to the employee the amount of such excess withholding.

c. Non-Resident Employed Outside the City:

1. Where an employer has withheld the tax from all wages of a non-resident of the City of Tipp City and such non-resident has been employed outside the City of Tipp City for all or a part of the time, such employee shall file a claim with the Administrator covering such erroneous withholding and the Administrator shall, upon verification thereof by the employer, refund to the employee the amount of such excess withholding.
2. From time to time, the Tax Administrator may establish rules for the granting of refunds.

d. Insufficient Withholding:

1. If less than the amount of tax, required to be deducted, is withheld from an employee, such deficiency shall be withheld from subsequent wages. However, if the employee-employer relationship has terminated, the employer shall notify the Administrator of such deficiency and the reason thereof.
2. Every employer is deemed to be a trustee for the City of Tipp City in collecting and holding the tax required under the Ordinance to be withheld and the funds so collected by such withholding are deemed to be trust funds.
3. Every such employer required to deduct and withhold the tax at the source is liable directly to the City of Tipp City for payment of such tax whether the tax was actually collected from such employee or not.
4. On or before the 28th day of February, following any calendar year in which such deductions have been made by an employer, such employer shall file with the Administrator, in the form prescribed by the Administrator, an information return for each employee from whom the City of Tipp City income tax has been withheld, clearly showing the name, address and social security number of the employee, the total amount of compensation paid during the year and the amount of the City of Tipp City income tax withheld from such employee.
5. For the convenience of employers, the information return referred to in Paragraph 4 immediately preceding, may be made in one of three (3) ways at the election of each employer, as follows:
 - a. Those employers using Form W-2 furnished commercially, may submit a copy of such commercial Form W-2 providing the copy furnished the City of Tipp City clearly shows the information required in Paragraph 5 immediately preceding.
 - b. Those employers not using Form W-2 furnished commercially may obtain forms upon request from the Administrator.
 - c. Where the furnishing of this information as indicated above will create a distinct hardship, the employer, upon written request to the Administrator, may be permitted to furnish a list of all employees subject to the tax, which list shall show the employee's full name, last known address, social security number, gross amount of compensation paid during the year and the amount of Tipp City income tax withheld. Such list may be compiled on any mechanical equipment presently used by the employer, but provision must be made for spacing equal to at least three (3) lines between each name. The employer's name must be indicated on each sheet, each sheet must be numbered and the total number of sheets comprising the complete report indicated on the first page.
 - d. The gross compensation to be reported for each employee shall be for the full twelve (12) calendar months of the year or such portion thereof as the employee reported on was employed.
6. In addition to such information returns, and at the time the same are filed, each employer shall file with the Administrator, a Reconciliation of Returns to enable the Administrator to reconcile the sum total of compensation paid and taxes withheld as disclosed by information returns or list of employees, and prior returns and remittance made pursuant to the Ordinance.

C. Fractional Parts of Cent:

In deducting and withholding the tax at the source and in payment of any tax due under the Ordinance, a fractional part of a cent shall be disregarded unless it amounts to one-half ($1/2c$) or more in which case it shall be increased to one cent ($1c$). No person shall be entitled to a refund merely because such rounding off of the tax results in an apparent overpayment based on his total earnings.

ARTICLE VII – DECLARATIONS

A. Requirement of Filing:

1. A declaration of estimated tax shall be filed by every taxpayer who may reasonable be expected to have taxable income, the tax on which is not or will not be withheld by an employer or employers. Where required, such declaration shall be filed with four (4) months after the beginning of the taxable year.
2. A taxpayer's final return for the preceding year may be used as the basis for computing his declaration of estimated tax for the current year, provided that the preceding year reflected a twelve (12) month period. In the event a taxpayer has not previously been required to file a return, a declaration of estimated tax on anticipated income shall be filed in good faith.

B. Date of Filing:

1. A person or other entity conducting a business not previously subject to the tax, or whose employer does not withhold the tax, shall file a declaration with four (4) months after the date he becomes subject to the tax.
2. Those taxpayers having a fiscal year or period differing from the calendar shall file a declaration within four (4) months after the start of each fiscal year or period.

C. Income Estimates:

1. If the preceding year's tax liability is used for estimating the current year, there shall be no additional assessments if payments are equal to the prior year tax liability and made prior to the prescribed due dates, provided the prior year return reflected a twelve (12) month period. If the preceding year's tax liability, or anticipated current year's liability is less than one hundred dollars (\$100), there is no requirement to file an income tax estimate.

D. Form for Filing:

1. Such declaration shall be filed upon a form or forms furnished by or obtainable upon request, from the Administrator. Provided, however, credit shall be taken for the City of Tipp City tax to be withheld from any portion of such income. In accordance with the provisions of Section XV of the Ordinance, credit may be taken for tax to be paid or withheld and remitted to another taxing municipality.
2. The original estimate of tax liability or any subsequent amendment thereof may be increased or decreased by filing an amended declaration on or before any quarterly payment date as set forth in Article VII-D. Such amendment may be made on the regular declaration form or on the back of any quarterly notice form.

E. An amended declaration must be filed on or before January 31 of the following year, or in the case of a taxpayer on a fiscal year, on or before the last day of the 13th month following the beginning of such fiscal year, if it appears that the original declaration made for such taxable year underestimated the taxpayer's income by ten percent (10%) or more. At such time, a payment which, together with prior payments, is sufficient to pay the taxpayer's entire estimated liability shall be made. If, upon the filing of the return required by Section V of the Ordinance, it appears that the taxpayer did not pay ninety percent (90%) of his tax liability, as shown on said return, the difference between ninety percent (90%) of said taxpayer's tax liability and the amount of estimated tax actually paid on or before the above mentioned date, shall be subject to the interest and penalty provisions of Section X of the Ordinance.

F. Dates of Payment:

1. For individuals, the estimated tax may be paid in full with the declaration or in equal installments on or before the last day of the fourth (April), seventh (July), tenth (October) and thirteenth (January) month after the beginning of the taxable year.
2. For non-individuals (Corporations, Partnerships, S Corps, LLCs, LLPs, etc.), the estimated tax may be paid in full with the declaration or in equal installments on the following dates:

Calendar Year Taxpayer

Fiscal Year Taxpayer

April 30

Last day of the fourth (4th) month

June 15

Fifteenth (15th) day of the sixth (6th) month

September 15

Fifteenth (15th) day of the ninth (9th) month

December 15

Fifteenth (15th) day of the twelfth (12th) month

3. The declaration must be accompanied by at least one installment of the estimated tax shown due thereon.
4. In the event an amended declaration has been filed, the unpaid balance shown due thereon shall be paid in equal installments over the remaining payment dates.

G. Final Returns Required:

1. The filing of a declaration does not relieve the taxpayer of the necessity of filing a final return even though there is no change in the declared tax liability. A final return must be filed to obtain a refund of any overpayment of over One Dollar (\$1.00).

H. Notwithstanding any provision or requirement of the Ordinance to the contrary, if a taxpayer resides or proposes to reside in the City of Tipp City or engages in business or proposes to engage in business therein for a period of less than three (3) months or if the Administrator determines that the residence of any taxpayer in the City or the period which any taxpayer will engage in business in the City of Tipp City may reasonably be expected to be less than three (3) months, the Administrator may require any such taxpayer to file a declaration and a return within such time as he may reasonably fix and to pay or secure the payment of any tax due and any tax withheld or required to be withheld during the period of residence or engagement in business or the period of such residence or engagement in business estimated by the Administrator.

I. The date or dates fixed by the Administrator for the filing of declarations and returns for payments or security for payment of taxes pursuant to the Sub-section G, shall be in lieu of the dates for such filing or payment specified for taxpayers generally in the Ordinance.

ARTICLE VIII – DUTIES AND POWERS OF THE ADMINISTRATOR OF TAXATION

A. Collection of Tax and Retention of Records:

1. It shall be the duty of the Administrator to receive the tax imposed by the Ordinance in the manner prescribed therein from the taxpayers; to keep an accurate record thereof, and to report daily all monies so received.
2. It shall be the duty of the Administrator to enforce payment of all taxes owing the City of Tipp City, to keep accurate records for a minimum of five (5) years showing the amount due from each taxpayer required to file a

declaration or make any return, including taxes withheld, and to show the dates and amounts of payments thereof.

B. Enforcement Provisions:

1. The Administrator is charged with the administration and enforcement of the provisions of the Ordinance and is, subject to the approval of the Board of Review, empowered to adopt, promulgate, and enforce rules and regulations relating to any matter or thing pertaining to the administration and enforcement of the Ordinance. The Administrator has the authority to correct or adjust any return submitted, when a correction or adjustment is necessary to accomplish the intent of the Ordinance.
2. Any taxpayer or employer desiring a special ruling on any matter pertaining to the Ordinance or these Rules and Regulations, should submit to the Administrator in writing, all the facts involved and the ruling sought.
3. These Regulations, together with all amendments and supplements hereto and all changes herein, will be on file with the Clerk of Council and at the office of the Administrator and will be open to public inspection.
4. The Administrator is authorized to arrange for the payment of unpaid taxes, interest and penalties on a schedule of installment payments, when the taxpayer has proved to the Administrator that, due to certain hardship conditions, he is unable to pay the full amount of the tax due. Such authorization shall not be granted until proper returns are filed by the taxpayer for all amounts owed by him under the Ordinance and shall not exceed a period in excess of six (6) months.
5. Failure to make any deferred payment due, shall cause the total unpaid amount, including penalty and interest, to become payable on demand and the provisions of Section XI and XII of the Ordinance shall apply.

C. Estimation of Tax by Administrator:

In any case where a taxpayer or employer has failed to file a return or has filed a return which does not show the proper amount of tax due, the Administrator may assess the amount of tax appearing to be due, together with interest and penalties thereon, if any, in the following manner:

1. General Provisions:

- a. If the Administrator determines that any taxpayer subject to the provisions of the Ordinance has a tax liability for which he has filed no return or has filed an incorrect return and had failed to pay the full amount of tax due, the Administrator shall issue a proposed assessment showing the amount of tax due, together with any penalty and interest that may have accrued thereon.
 1. Such proposed assessment shall be served upon the taxpayer in person or by mailing to his last known address. Proof of mailing furnished by the U.S. Post Office shall be presumptive proof of receipt thereof by the addressee.
 2. A taxpayer may, within fifteen (15) days after the date the proposed assessment was served or mailed, file a written protest with the Administrator. Within fifteen (15) days after receipt of the protest, the Administrator shall give the protestant an opportunity to be heard; provided further that the Administrator may extend the date of hearing for good cause shown. After the hearing the Administrator shall withdraw the assessment or he shall adjust or reaffirm the assessment and it shall then become final. If no protest is filed as herein provided, such proposed assessment shall become final fifteen (15) days after being served.
- b. After a proposed assessment becomes final, notice of such final assessment shall be issued and shall be served in the same manner as a proposed assessment.
 1. A taxpayer shall have thirty (30) days after the date the final assessment was served or mailed within which to file written notice of appeal with the Board of Tax Appeals. The request shall state with particularity

why the decision should be deemed incorrect or unlawful. Such written notice of appeal shall be filed in a sealed envelope plainly marked "Appeal to Board of Tax Appeals" and mailed or delivered to the Administrator who shall within five (5) days after receipt thereof, deliver such appeal to the Chairman of the Board of Tax Appeals or, if the Chairman is not available, to the Vice-Chairman.

2. The imposition of penalty and interest as prescribed in the codified ordinance of the City of Tipp City is not a sole basis for an appeal.

3. The Board of Tax Appeals, upon receipt of a notice of appeal, shall within fifteen (15) days notify the Administrator thereof who shall forward within fifteen (15) days to the Board, a certified transcript of all actions taken by him with respect to said final assessment. Such transcript shall be open to inspection by the appellant and his counsel.

4. Any taxpayer, against whom a final assessment has been issued and who has filed a notice of appeal, shall be granted a hearing by the Board of Tax Appeals within forty-five (45) days after the Board receives the request, unless the taxpayer waives a hearing. At such hearing the appellant and the Administrator shall be given opportunity to present evidence relating to the said final assessment. The taxpayer may appear before the Board and may be represented by an attorney at law, certified public accountant, or other representative. Within ninety (90) days after the conclusion of such hearing, the Board of Tax Appeals shall affirm, reverse or modify the said final assessment and shall furnish a copy of its decision within fifteen (15) days after issuing the decision in respect thereof to the appellant and the Administrator. The appellant's copy of said decision shall be served upon him in the same manner as herein provided for the serving of assessments.

a. Each Board of Tax Appeals created pursuant to this section shall adopt rules governing its procedures and shall keep a record of its transactions. Such records are not public records available for inspection under Section 149.43 of the Ohio Revised Code. Hearings requested by a taxpayer before a Board of Tax Appeals created pursuant to this section are not meetings of a public body subject to Section 121.22 of the Ohio Revised Code.

b. When any taxpayer subject to the provisions of the Ordinance has filed a return indicating the amount of tax due and has failed to pay said tax to the Administrator as required by the Ordinance, the Administrator need not issue an assessment but may proceed under the provisions of Section XI and XII of the Ordinance.

2. Provisions Affecting Employers:

a. If the Administrator determines that an employer subject to the provisions of the Ordinance has failed to file a return for tax withheld and has failed to pay to the Administrator the full amount of said taxes, the Administrator shall issue a proposed assessment showing the amount of tax due, together with any penalties and interest that may have accrued thereon, and the provisions of Paragraphs C-1a and C-1b of Section VIII of the Ordinance shall then apply.

b. If the Administrator determines that an employer subject to the provisions of the Ordinance has failed to withhold tax, the Administrator shall issue a proposed assessment showing the tax due, together with any penalties and interest that may have accrued thereon and the provisions of Paragraphs C-1a and C-1b of Section VIII of the Ordinance shall then apply.

c. When an employer subject to the provisions of the Ordinance has filed a return indicating the amount of tax withheld and has failed to pay said to the Administrator as required by the Ordinance, the Administrator may proceed under the provisions of Sections XI and XII of the Ordinance and need not issue an assessment as provided in Section VIII, Paragraphs C-2a and C-2b of the Ordinance.

ARTICLE IX – EXAMINATION OF BOOKS AND RECORDS, INFORMATION SO OBTAINED CONFIDENTIAL: PENALTY

A. Investigation by Administrator:

1. The Administrator, or his duly authorized agent, is empowered to examine the books, papers, records and copies of Federal income tax returns of any employer, taxpayer or person subject to the Ordinance, or whom the Administrator believes is subject to the provisions of the Ordinance, for the purpose of verifying the accuracy of any return made; or, if no return was made, to ascertain the tax due under the Ordinance.
2. An employer or taxpayer shall furnish, within ten (10) days following a written request by the Administrator, or his duly authorized agent, the means, facilities and opportunity for making examinations and investigations authorized by the Ordinance.

B. Subpoena of Records and Persons:

1. The Administrator, or any person acting in his capacity, is authorized to examine any person, under oath, concerning any income, which was, or should have been, returned for taxation, or any transaction tending to affect such income. The Administrator may compel the production of books, papers and records and the attendance of all persons before him, whether as parties or witnesses, whenever he believes such persons have knowledge of the facts concerning any supposed income or supposed transaction of the taxpayer.
2. The Administrator's order to examine any document mentioned in the preceding paragraph shall state whether the examination is to be at the office of the taxpayer or at the office of the Administrator.
3. The Administrator may order the appearance before him, or his duly authorized agent, of any party whom he believes to have any knowledge of a taxpayer's income or withholdings, or any information pertaining to the taxpayer under investigation, whether or not the individual so ordered has actual custody of the records of the taxpayer being investigated. The Administrator is specifically authorized to order the appearance of the local manager or representative of any taxpayer.
4. Persons required to attend any hearings shall be notified not less than ten (10) days prior to the time of the hearing. The notice shall show the time and place of the hearing and what books, papers or records the witness is to make available at such time.
5. The notice shall be served by the Administrator, or his duly authorized agent, by delivering it to the person named in the notice, or by leaving the notice at his usual place of business or residence, or by mailing it to the persons by registered mail, return receipt requested, addressed to his usual place of business or residence.

C. Penalty for Non-Compliance:

Refusal by any employer, supposed employer, taxpayer, or supposed taxpayer, or the refusal of any such person to appear before the Administrator or his duly authorized agent, to submit to such examination and to produce the records requested, constitutes a misdemeanor punishable by fine or imprisonment or both, as prescribed by Section XII of the Ordinance.

D. Confidential Nature of Examination:

Any information gained as a result of any return, investigations, verifications or hearings before the Administrator, required by the Ordinance or authorized by these Rules and Regulations shall be confidential and no disclosure thereof shall be made except for official purposes or as ordered by a court of competent jurisdiction. Any person divulging such information shall be guilty of a misdemeanor punishable by a maximum fine of Five Hundred Dollars (\$500.00) or imprisonment for not more than six (6) months, or both. In addition to the above penalty, any employee of the City of Tipp city who violates the provisions of Section IX of the Ordinance relative to the disclosure of confidential information shall be guilty of an offense punishable by immediate dismissal.

E. Retention of Records:

All Employers and taxpayers are required to keep such records as will enable the filing of true and accurate returns whether of taxes withheld at the source or of taxes payable upon earnings or net profits, or both. Such records shall be preserved for a period of not less than five (5) years from the date the final return is filed and paid or the withholding taxes are paid.

1. Refunds may be withheld from an employee until the employer has filed withholding statements.
2. All forms required, including current declarations, completed schedules, and the furnishing of any information requested by the tax office, are to be filed before a refund is processed.
3. Statute of limitations runs from the due date of the final return. The Statute of limitations does not start until a final return is filed.
4. Refunds will not be made to an individual or business moving from the City until a return for the portion of the year involved has been filed and audited.

ARTICLE X – INTEREST AND PENALTIES

A. Interest:

1. Except as provided in Paragraph C of this Article all taxes imposed and all monies withheld, or required to be withheld, by employers under the provisions of the Ordinance and remaining unpaid after they have become due shall bear interest, in addition to the amount of the unpaid tax or withholdings, at the rate of one percent (1.0%) per month or fraction thereof.

B. Penalties

In addition to interest as provided in Paragraph A immediately above, penalties based on the unpaid tax are hereby imposed as follows.

1. For failure to pay taxes due, other than taxes withheld, one percent (1.0%) per month or fraction thereof, or ten percent (10.0%), whichever is greater.
2. For failure to remit taxes withheld from employees, three percent (3.0%) per month or fraction thereof, or ten percent (10.0%), whichever is greater.
3. Failure to file a Tipp City Income Tax Return and/or Return of Income Tax Withheld by the due date shall result in a late filing penalty fee of \$20.00 being assessed. This fee is in addition to any interest and penalties provided for in Parts A and B of this section. The \$20.00 late filing fee is waived for first time filers.
4. On the excess of ninety percent (90%) of the actual tax over the amount paid on declaration of estimated tax where a declaration has not been filed estimating a tax liability in the same or greater amount than paid the previous year, or where a final return has not been filed and the total paid on or before the end of the month following the close of the taxable year, ten percent (10%) of the difference between ninety percent (90%) of the total for the year and the amount paid through withholding or declaration.
5. Except in the case of fraud, the penalty shall not exceed fifty percent (50%) of the unpaid tax.

C. Exceptions:

1. No penalty shall be assessed on additional taxes found on audit to be due when a return was timely filed in good faith and the tax paid thereon within fifteen (15) days from the date the taxpayer was notified of such findings.

2. In the absence of fraud, neither penalty nor interest shall be assessed on any additional taxes resulting from a Federal audit for Federal income tax purposes provided an amended return is filed and the additional tax paid within three (3) months after final determination of the Federal tax liability.

D. Appellate Review:

Upon recommendation of the Administrator, the Board of Review may abate penalty or interest, or both.

E. Minimum Assessment:

Penalty and interest charges shall not be levied when the total of such charges amounts to less than One Dollar (\$1.00).

F. Violations by Employers:

Any person required to withhold the tax who knowingly fails to withhold such tax, or pay over such tax or knowingly attempts in any manner to evade or defeat such tax or the payment thereof, shall, in addition to other penalties provided by law, be liable to a penalty equal to the total amount of the tax evaded, or not withheld, or not paid over. No other penalty under Section X of the Ordinance shall be applied to any offense to which this penalty is applied.

G. Effect on Extensions:

1. No penalty shall be assessed on a return where a balance due is paid within the extended period for filing that return when such extension was authorized by the Administrator as provided in Section V, Paragraph C of the Ordinance.

2. Penalty shall be assessed from the date the return was due as provided in Sections V, VI and VII of the Ordinance when the return is not filed within the extended period referred to above.

3. Interest as provided in Section X, Paragraph A of the Ordinance shall be assessed on returns not filed within the due dates provided in Sections V, VI and VII of the Ordinance, even though the time for filing the return has been extended.

ARTICLE XI – COLLECTION OF UNPAID TAXES AND REFUND OF OVERPAYMENTS

A. Unpaid Sums – A Civil Debt:

1. All taxes imposed by the Ordinance and not paid when due become, together with interest and penalties thereon, a debt due the City from the taxpayer and are recoverable as are other debts by civil suit. Employers who are required, under Section VI of the Ordinance, to withhold and remit the taxes, required to be withheld, at the source, and who fail to withhold or remit, become liable to the City in a civil suit to enforce the payment of the debt created by such failure.

2. No additional assessment shall be made by the Administrator after three (3) years from the time the return was due or filed, whichever is later. Provided, however, there shall be no period of limitation on such additional assessments in the case of a return that omits a substantial portion of income, overstates tax credits by a

substantial amount, or filing a false or fraudulent return to evade payment of the tax, or failure to file a final return. Failure to report twenty-five percent (25%) or more of gross income, or overstatement of tax credits by twenty five percent (25%) or more, shall be considered a substantial omission.

3. In those cases in which the Commissioner of Internal Revenue and the taxpayer have executed a waiver of the Federal Statute of limitation, the period with which an assessment may be made by the Administrator is extended to one (1) year from the time of final determination of Federal tax liability.

4. Taxes owed by a decedent may be collected from his estate and the mere fact that an estate is not probated does not cancel a tax obligation.

B. Refunds and Overpayments:

1. Taxes erroneously paid shall not be refunded unless a claim for refund is made within three (3) years from the date on which such payment was made, or the return was due, or three (3) months after the determination of the Federal income tax liability, whichever is later.

2. No refund shall be made to any taxpayer until he has complied with all provisions of the Ordinance and has furnished all information required by the Administrator.

3. Overpayments shall be either refunded or credited to the taxpayer's current year's liability at his option. Where no election has been made by the taxpayer, overpayments of any year's taxes shall be applied as follows:

a. To taxes owed for any previous years in the order in which such taxes became due.

b. To his current estimated tax liability.

4. No refund of city income tax on qualifying wages paid to a taxpayer for personal services performed by the taxpayer outside of the city at the convenience, as distinguished from the necessity, of the taxpayer's employer shall be granted.

5. Claims for "Days out of Town" refunds must include a schedule including: days, dates, business location and business purpose, along with a signed letter from the employer on its letterhead, confirming the "days out of town" information provided.

C. Limitations:

1. Additional amounts of less than One Dollar and one cent (\$1.01) shall not be refunded.

2. Additional amounts of less than One Dollar and one cent (\$1.01) shall not be assessed unless:

a. The full amount of tax due as originally shown on the return has not been paid in full; or

c. Such assessment results from income, which the taxpayer has failed to report.

ARTICLE XII – VIOLATIONS, PENALTIES

A. Any person who shall:

1. Fail, neglect, or refuse to make any return or declaration required by the Ordinance, or

2. Make any incomplete, false or fraudulent return; or
3. Fail, neglect or refuse to pay the tax, penalties or interest imposed by the Ordinance; or
4. Fail, neglect or refuse to withhold the tax from his employees or remit such withholding to the Administrator; or
5. Refuse to permit the Administrator or any duly authorized agent or employee to examine his books, records, papers and copies of Federal income tax returns relating to the income or net profits of a taxpayer; or
6. Fail to appear before the Administrator and to produce his books, records, or copies of Federal income tax returns relating to the income or net profits of a taxpayer upon order or subpoena of the Administrator; or
7. Refuse to disclose to the Administrator any information with respect to the income or net profits of a taxpayer; or
8. Fail to comply with the provisions of the Ordinance or any order or subpoena of the Administrator authorized hereby; or
9. Attempt to do anything whatever to avoid the payment of the whole or any part of the tax, penalties or interest imposed by the Ordinance, shall be guilty of a misdemeanor and shall be fined not more than Five Hundred Dollars (\$500.00) or imprisoned not more than six (6) months or both, for each offense.

B. 1. Any person subject to the provisions of Sections I through XVIII inclusive, of the Ordinance, who has failed to file a return or has filed an incorrect return and has failed to pay the full amount of tax due, shall not be deemed to have committed an offense punishable under the provisions of Section XII of the Ordinance until the assessment issued against him under the provisions of Section VIII of the Ordinance, has become due and payable.

2. Any person who has filed a return under the provisions of Sections I through XVIII inclusive, of the Ordinance, indicating the amount of tax due, and has failed to pay said tax, together with any penalties or interest that may have accrued thereon, shall not be deemed to have committed an offense for having knowingly failed to pay the tax, penalties or interest due as provided in Paragraph A-3 of this Article XII, until the date of the filing of such return.

C. The term "person" as used in this Article XII shall, in addition to the meaning prescribed in Article II of these Regulations, include in the case of an association or corporation not having any partner, member or officer within the City of Tipp City, any employee or agent of such association or corporation who can be found within the corporate limits of the City of Tipp City.

D. Prosecutions:

Prosecutions under the Ordinance must be commenced within five (5) years from the time of the offense complained of except in the case of failure to file a return or in the case of filing a false or fraudulent return, in which event the limitation of time within which prosecution must be commenced shall be ten (10) years from the date the return was due or the date the false or fraudulent return was filed.

E. Failure to Receive Forms – Not a Defense:

The failure of any employer or person to receive or procure a return, declaration or other required form shall not excuse him from making any information return, declaration or return, from filing such form, or from paying the tax.

ARTICLE XIII – BOARD OF REVIEW AND BOARD OF TAX APPEALS

A. Board of Review:

1. A Board of Review, consisting of the City Solicitor as Chairman, City Manager as Secretary and the President of Council is created under the Ordinance. A majority of the members of the Board shall constitute a quorum.
2. The Board shall adopt its own procedural rules and shall keep a record of its proceedings. All hearings of the Board shall be conducted privately and the provisions of Section IX of the Ordinance with reference to the confidential character of information required to be disclosed by the Ordinance shall apply to such matters as may be presented to the Board of Review.
3. The Board shall have the authority, upon request of the Administrator, to modify in whole or in part, any assessment of tax, penalty or interest, required to be made by the ordinance. In addition, the Board may authorize the Administrator to accept partial payments for a period in excess of the time authorized in Section VIII of the Ordinance.
4. All rules and regulations and amendments or changes thereto, which are adopted by the Administrator under the authority conferred by the Ordinance, must be approved by the Board of Review before the same become effective.

B. Board of Tax Appeals

1. A Board of Tax Appeals, consisting of three (3) representative citizens of the City of Tipp City, not otherwise employed by the City of Tipp City, to be appointed by the Council of the City of Tipp City for a term of one (1) year, is created under the Ordinance.
2. One of the members of the Board, appointed by the Council to the City of Tipp City, shall be chosen by the members as Chairman of the Board and all may receive per diem compensation to be fixed by the Council of the City of Tipp City. A majority of the members of the Board shall constitute a quorum. The Board shall adopt its own procedural rules and keep a record of its proceedings. All hearings by the Board shall be conducted privately unless the taxpayer specifically requests, in writing, a public hearing. Unless such written request is made, the provisions of Section IX of the Ordinance, with reference to the confidential character of information required to be disclosed by the Ordinance, shall apply to such matters as may be heard on appeal before the Board.
3. The Board shall, on hearing, have jurisdiction to affirm, reverse or modify any such assessment, ruling or decision, or any part thereof, made by the Administrator from which an appeal has been filed as provided in Section VIII of the Ordinance.

ARTICLE XIV – ALLOCATION OF FUNDS (See Section XIV of the Ordinance)

ARTICLE XV – CREDIT ALLOWED FOR TAX PAID TO ANOTHER MUNICIPALITY

A. Limitation:

1. Where a resident of the City of Tipp City is subject to a municipal tax, on or measured by income, in another municipality either located within or without the State of Ohio, he shall not pay a total municipal tax on the same income greater than the tax imposed at the higher rate.

B. Credits to Residents:

Resident individuals of the City of Tipp City who are required to pay and do pay, a tax to another municipality on salaries, wages, commissions or other compensation for work done or services performed in such other municipality, or on net profits from businesses, professions or other activities conducted in such other municipality, may claim a credit of the amount of tax paid by them or on their behalf to such other municipality but only to the extent of the tax imposed by the Ordinance on such compensation or net profits. If a resident of Tipp City receives a refund from another municipality, the credit allowed by Tipp City is reduced proportionately.

C. Method of Applying for Credit:

1. No credit will be given unless the taxpayer claims such credit on his final return or other form prescribed by the Administrator, and presents such evidence of the payment of a similar tax to another municipality, as the Administrator may require.

2. A statement satisfactory to the Administrator from the taxing authority of the municipality to which the taxes are paid, that a City of Tipp City resident or his employer is paying the tax shall be considered as fulfilling the requirement of this Article.

ARTICLE XVI-- JOINT ECONOMIC DEVELOPMENT DISTRICTS (J.E.D.D.)

A. Credit for tax paid to another municipality or to a Joint Economic Development District.

1. Where the resident of the City of Tipp City is subject to a municipal income tax in another municipality or in a Joint Economic Development District, he shall not pay a total municipal income tax on the same income greater than the tax imposed at the higher rate.

2. Every taxpayer who resides in the City of Tipp City but receives net profits, salaries, wages, commissions, other compensation, and other income from a resident or nonresident business entity or association of which he is a partner or owner, for work done or services performed or rendered outside of the City of Tipp City, if it is made to appear that he or such business entity has paid a municipal or a Joint Economic Development District income tax on or with respect to the same income taxable under this chapter to another municipality or to a Joint Economic Development District, shall be allowed a credit against the tax imposed by this chapter in the amount so paid by him, in his behalf or by such business entity, to the other municipality or to a Joint Economic Development District. In no event, however, shall any municipal income tax or any Joint Economic Development income tax to the extent paid to another municipality or to a Joint Economic Development District and allowed as a credit hereunder be deductible in computing the net profit of such taxpayer or such business entity. In addition, the credit shall not exceed the tax assessed by this chapter on income earned in such other municipality or municipalities or Joint Economic Development District(s) where the tax is paid.

3. A claim for refund or credit under this section shall be made in such a manner as the Tax Administrator may, by regulation, provide.

B. Requirements for Joint Economic Development Districts.

1. Specific provisions of this chapter may be modified as they apply to Joint Economic Development Districts, if the modifications are passed by Council in an ordinance which either specifically approves a Joint Economic Development District contract or specifically amends this chapter.

ARTICLE XVII – SAVINGS CLAUSE

- A. These Rules and Regulations shall not apply to any person, firm, corporation, or income, as to whom, or as to which it is beyond the power of the Council to impose the tax provided for in the Ordinance.
- B. If any sentence, clause, section or part of the Ordinance, or any article or part of these Rules and Regulation, or any tax against any individual, or any of the several groups specified in the Ordinance or Rules and Regulations, is found to be unconstitutional, illegal, or invalid, such unconstitutionality, illegality or invalidity shall affect only such sentence, clause, section or part of the Ordinance, or article, or part of these Rules and Regulations and shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of the Ordinance or these Rules and Regulations. It is hereby to be the intention of the Administrator and the Board of Review that these Rules and Regulations would have been adopted had such unconstitutional, illegal or invalid sentence, clause, article or part thereof not been included therein or herein.

ARTICLE XVIII -- COLLECTION OF TAX AFTER TERMINATION OF ORDINANCE

- A. This Ordinance is to be effective insofar as the levy of taxes is concerned until repealed, and insofar as the collection of taxes levied there under and actions or proceedings for collecting any tax so levied or enforcing any provisions of Ordinance concerned, it shall continue to be in effect until all of said taxes levied there under are fully paid and any and all suits and prosecutions for the collection of said taxes or for the punishment of violations of the Ordinance shall have been fully terminated, subject to the limitations contained in Section XI and XII thereof.
- B. Annual returns due for all or any part of the last effective year of the Ordinance shall be due on the date provided in Sections V and VI of the Ordinance as though the same were continuing.

ADDENDUM

From time to time, amendments and supplements to our Rules and Regulations may be issued by the Tax Administrator, subject to the approval of the Board of Review.

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CALENDAR

FINAL DATES FOR FILING RETURNS AND PAYING TAX

January 15	EMPLOYERS WITHHOLDING (MONTHLY): Return of Income Tax Withheld in December of preceding year (Form TW-1).
January 31	EMPLOYERS WITHHOLDING (QUARTERLY): Return of Income Tax Withheld in the fourth quarter of the preceding year (Form TW-1). EMPLOYERS: Withholding Statements (Form TW-2) showing total wages paid and tax Withheld for each employee during the preceding year, accompanied by Reconciliation of Returns (Form TW-3) TAXPAYERS (Individuals) Fourth quarterly installment payment of the preceding year's estimated income tax (Form TQ-1). TAXPAYERS (all types) Amended Declaration of Estimated Tax (Form D-1) if original Declaration for previous year under estimated income by ten percent (10%) or more.
February 15	TAXPAYERS: Final Income Tax Return and full payment for the preceding year by taxpayers who did not pay estimated income tax in full (Form R) EMPLOYERS WITHHOLDING (MONTHLY): Return of Income Tax Withheld in January (Form TW-1).
March 15	EMPLOYERS WITHHOLDING (MONTHLY): Return of Income Tax Withheld in February (Form TW-1)
April 15	EMPLOYERS WITHHOLDING (MONTHLY): Return of Income Tax Withheld in March (Form TW-1).
April 30	EMPLOYERS WITHHOLDING (QUARTERLY): Return of Income Tax Withheld in the first quarter (Form TW-1). TAXPAYERS (All types) Final Income Tax Return for the preceding year (Form R). TAXPAYERS: (All types) Declaration of Estimated Tax for the current year (Form D-1), accompanied by first quarterly installment payment.
May 15	EMPLOYERS WITHHOLDING (MONTHLY): Return of Income Tax Withheld in April (Form TW-1).
June 15	EMPLOYERS WITHHOLDING (MONTHLY): Return of Income Tax Withheld in May (Form TW-1). TAXPAYERS (Non-Individuals): Second quarterly installment payment of estimated Income tax (TQ-1).

- July 15 **EMPLOYERS WITHHOLDING (MONTHLY):** Return of Income Tax Withheld in June (Form TW-1).
- July 31 **EMPLOYERS WITHHOLDING (QUARTERLY):** Return of Income Tax Withheld in The second quarter (Form TW-1).
- TAXPAYERS** (Individuals) Second quarterly installment payment of estimated income tax (Form TQ-1).
- August 15 **EMPLOYERS WITHHOLDING (MONTHLY):** Return of Income Tax Withheld in July (Form TW-1).
- September 15 **EMPLOYERS WITHHOLDING (MONTHLY):** Return of Income Tax Withheld in August (Form TW-1).
- TAXPAYERS** (Non-Individuals): Third quarterly installment payment of estimated income tax (Form TQ-1)
- October 15 **EMPLOYERS WITHHOLDING (MONTHLY):** Return of Income Tax Withheld in September (Form TW-1).
- October 31 **EMPLOYERS WITHHOLDING (QUARTERLY):** Return of Income Tax Withheld in the third quarter (Form TW-1).
- TAXPAYERS** (Individuals) Third quarterly installment payment of estimated income tax (Form TQ-1).
- November 15 **EMPLOYERS WITHHOLDING (MONTHLY):** Return of Income Tax Withheld in October (Form TW-1).
- December 15 **EMPLOYERS WITHHOLDING (MONTHLY):** Return of Income Tax Withheld in November (Form TW-1).
- TAXPAYERS** (Non-Individuals): Fourth quarterly installment payment of estimated income tax (Form TQ-1)
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Note: Fiscal year taxpayers (Non-Individuals) shall file Final Tax Returns (Form R) and Declaration of Estimated Tax (Form R) by the last day of the fourth month after the close of their fiscal year. Subsequent quarterly installment payments of estimated tax are due on the fifteenth (15th) day of the sixth (6th), ninth (9th), and twelfth (12th) months after the close of their fiscal year